

more than 2.5 percent to carry out sections 12523(e) and 12639a of this title and division K of subchapter I,<sup>1</sup> of which \$1,000,000 shall be used by the Corporation to carry out section 12639a of this title. Notwithstanding subsection (b), amounts so reserved shall be available only for the fiscal year for which the amounts are reserved.

#### (b) Availability of appropriations

Funds appropriated under this section shall remain available until expended.

(Pub. L. 101-610, title V, § 501, Nov. 16, 1990, 104 Stat. 3185; Pub. L. 102-384, § 11, Oct. 5, 1992, 106 Stat. 1459; Pub. L. 103-82, title III, § 301(a), Sept. 21, 1993, 107 Stat. 897; Pub. L. 111-13, title I, § 1841, Apr. 21, 2009, 123 Stat. 1579.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(3)(B), (5)(A), (6), was in the original “this Act”, meaning Pub. L. 101-610, Nov. 16, 1990, 104 Stat. 3127, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (a)(6), is Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 394. Title I of the Act is classified generally to subchapter I (§ 4951 et seq.) of chapter 66 of this title. Title II of the Act is classified generally to subchapter II (§ 5000 et seq.) of chapter 66 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

Division K of subchapter I, referred to in subsec. (a)(6), was in the original “subtitle J” which was translated as meaning subtitle J of title I of Pub. L. 101-610, to reflect the probable intent of Congress.

#### AMENDMENTS

2009—Subsec. (a). Pub. L. 111-13, § 1841(1), added subsec. (a) and struck out former subsec. (a) which authorized appropriations for subchapter I of this chapter.

Subsecs. (b) to (d). Pub. L. 111-13, § 1841(2), (3), redesignated subsec. (c) as (b) and struck out former subsec. (b), which authorized appropriations for subchapter II of this chapter, and subsec. (d), which specified the budget function for the appropriations authorized in this section.

1993—Pub. L. 103-82 amended section generally, substituting subsecs. (a) to (d) for former subsecs. (a) and (b) which authorized appropriations to carry out subchapter I for fiscal year 1993 and subchapter II for fiscal years 1991 to 1993.

1992—Subsec. (a)(1). Pub. L. 102-384, § 11(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “There are authorized to be appropriated to carry out subchapter I of this chapter, \$56,000,000 for fiscal year 1991, \$95,500,000 for fiscal year 1992, and \$105,000,000 for fiscal year 1993.”

Subsec. (a)(2). Pub. L. 102-384, § 11(b), substituted “paragraph (1)(A)” for “paragraph (1)” in introductory provisions, redesignated subpars. (B) to (D) as (A) to (C), respectively, added subpar. (D), and struck out former subpar. (A) which read as follows: “\$2,000,000 shall be made available to carry out part G of subchapter I of this chapter in each such fiscal year;”.

#### EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as a note under section 4950 of this title.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Section 301(b) of Pub. L. 103-82 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1993.”

### § 12682. Actions under national service laws to be subject to availability of appropriations

No action involving the obligation or expenditure of funds may be taken under one of the national service laws (as defined in section 12511(15)<sup>1</sup> of this title) unless and until the Corporation for National and Community Service has sufficient appropriations available at the time such action is taken to satisfy the obligation to be incurred or make the expenditure to be made.

(Pub. L. 103-82, title II, § 205, Sept. 21, 1993, 107 Stat. 897.)

#### REFERENCES IN TEXT

Section 12511(15) of this title, referred to in text, was redesignated section 12511(26) by Pub. L. 111-13, title I, § 1102(b)(1), Apr. 21, 2009, 123 Stat. 1467.

#### CODIFICATION

Section enacted as part of the National and Community Service Trust Act of 1993, and not as part of the National and Community Service Act of 1990 which comprises this chapter.

## CHAPTER 130—NATIONAL AFFORDABLE HOUSING

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<sup>1</sup> See References in Text note below.

<sup>1</sup> See References in Text note below.

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## SUBCHAPTER I—GENERAL PROVISIONS AND POLICIES

## § 12701. National housing goal

The Congress affirms the national goal that every American family be able to afford a decent home in a suitable environment.

(Pub. L. 101-625, title I, §101, Nov. 28, 1990, 104 Stat. 4085.)

## SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108-186, title I, §101, Dec. 16, 2003, 117 Stat. 2685, provided that: “This title [amending part E of subchapter II of this chapter] may be cited as the ‘American Dream Downpayment Act’.”

## SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-569, title I, §101, Dec. 27, 2000, 114 Stat. 2946, provided that: “This title [amending sections 5307, 12705c, and 12705d of this title] may be cited as the ‘Housing Affordability Barrier Removal Act of 2000’.”

## SHORT TITLE

Section 1(a) of Pub. L. 101-625 provided that: “This Act [see Tables for classification] may be cited as the ‘Cranston-Gonzalez National Affordable Housing Act’.”

Section 201 of title II of Pub. L. 101-625 provided that: “This title [enacting subchapter II of this chapter, amending section 1437f of this title, and repealing sections 1437o and 1452b of this title, section 1706e of Title 12, Banks and Banking, and provisions set out as a note under section 1715f of Title 12] may be cited as the ‘HOME Investment Partnerships Act’.”

Section 301 of Pub. L. 101-625 provided that: “This subtitle [subtitle A (§§301-310) of title III of Pub. L. 101-625, enacting subchapter III of this chapter] may be cited as the ‘National Homeownership Trust Act’.”

## MILLENNIAL HOUSING COMMISSION

Pub. L. 107-73, title II, Nov. 26, 2001, 115 Stat. 671, provided in part: “That \$1,500,000 shall be for necessary expenses of the Millennial Housing Commission, as authorized by section 206 of Public Law 106-74 [set out below], with the final report due no later than May 30, 2002 and a termination date of August 30, 2002, notwithstanding section 206(f) and (g) of Public Law 106-74”.

Pub. L. 106-74, title II, §206, Oct. 20, 1999, 113 Stat. 1070, as amended by Pub. L. 106-554, §1(a)(4) [div. B, title X, §1001], Dec. 21, 2000, 114 Stat. 2763, 2763A-310, provided that:

“(a) ESTABLISHMENT.—There is hereby established a commission to be known as the Millennial Housing Commission (in this section referred to as the ‘Commission’).

“(b) STUDY.—The duty of the Commission shall be to conduct a study that examines, analyzes, and explores—

“(1) the importance of housing, particularly affordable housing which includes housing for the elderly, to the infrastructure of the United States;

“(2) the various possible methods for increasing the role of the private sector in providing affordable housing in the United States, including the effectiveness and efficiency of such methods; and

“(3) whether the existing programs of the Department of Housing and Urban Development work in conjunction with one another to provide better housing opportunities for families, neighborhoods, and communities, and how such programs can be improved with respect to such purpose.

“(c) MEMBERSHIP.—

“(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 22 members, appointed not later than January 1, 2000, as follows:

“(A) Two co-chairpersons appointed by—

“(i) one co-chairperson appointed by a committee consisting of the chairmen of the Subcommittees on the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies of the Committees on Appropriations of the House of Representatives and the Senate, and the chairman of the Subcommittee on Housing and Community Opportunities of the House of Representatives and the chairman of the Subcommittee on Housing and Transportation of the Senate; and

“(ii) one co-chairperson appointed by a committee consisting of the ranking minority members of the Subcommittees on the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies of the Committees on Appropriations of the House of Representatives and the Senate, and the ranking minority member of the Subcommittee on Housing and Community Opportunities of the House of Representatives and the ranking minority member of the Subcommittee on Housing and Transportation of the Senate.

“(B) Ten members appointed by the Chairman and Ranking Minority Member of the Committee on Appropriations of the House of Representatives and the Chairman and Ranking Minority Member of the Committee on Banking and Financial Services [now Committee on Financial Services] of the House of Representatives.

“(C) Ten members appointed by the Chairman and Ranking Minority Member of the Committee on Appropriations of the Senate and the Chairman and Ranking Minority Member of the Committee on Banking, Housing, and Urban Affairs of the Senate.

“(2) QUALIFICATIONS.—Appointees should have proven expertise in directing, assembling, or applying capital resources from a variety of sources to the successful development of affordable housing or the revitalization of communities, including economic and job development.

“(3) VACANCIES.—Any vacancy on the Commission shall not affect its powers and shall be filled in the manner in which the original appointment was made.

“(4) CHAIRPERSONS.—The members appointed pursuant to paragraph (1)(A) shall serve as co-chairpersons of the Commission.

“(5) PROHIBITION OF PAY.—Members of the Commission shall serve without pay.

“(6) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

“(7) QUORUM.—A majority of the members of the Commission shall constitute a quorum but a lesser number may hold hearings.

“(8) MEETINGS.—The Commission shall meet at the call of the Chairpersons.

“(d) DIRECTOR AND STAFF.—

“(1) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Chairperson. The Director shall be paid at a rate not to exceed the rate of basic pay payable for level III of the Executive Schedule.

“(2) STAFF.—The Commission may appoint personnel as appropriate. The staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

“(3) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for the General Schedule.

“(4) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal department or agency may detail, on a non-reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

“(e) POWERS.—

“(1) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

“(2) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

“(3) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairpersons of the Commission, the head of that department or agency shall furnish that information to the Commission.

“(4) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

“(5) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

“(6) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

“(7) CONTRACT AUTHORITY.—The Commission may contract with and compensate Government and private agencies or persons for services, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

“(f) REPORT.—The Commission shall submit to the Committees on Appropriations and Banking and Financial Services [now Committee on Financial Services] of the House of Representatives and the Committees on Appropriations and Banking, Housing, and Urban Affairs of the Senate a final report not later than March 1, 2002. The report shall contain a detailed statement of the findings and conclusions of the Commission with respect to the study conducted under subsection (b), together with its recommendations for legislation, administrative actions, and any other actions the Commission considers appropriate.

“(g) TERMINATION.—The Commission shall terminate on June 30, 2002. Section 14(a)(2)(B) of the Federal Advisory Committee Act (5 U.S.C. App.; relating to the termination of advisory committees) shall not apply to the Commission.”

COMMISSION ON AFFORDABLE HOUSING AND HEALTH FACILITY NEEDS FOR SENIORS IN THE 21ST CENTURY

Pub. L. 107-73, title II, Nov. 26, 2001, 115 Stat. 671, provided in part: “That \$1,000,000 shall be for necessary expenses of the commission established under section 525 of the Preserving Affordable Housing for Senior Citizens and Families in the 21st Century Act [Pub. L. 106-74, set out below], with the final report due no later than June 30, 2002 and a termination date of September 30, 2002, notwithstanding section 525(f) and (g) of Public Law 106-74”.

Pub. L. 106-74, title V, § 525, Oct. 20, 1999, 113 Stat. 1106, as amended by Pub. L. 106-377, § 1(a)(1) [title II, § 230], Oct. 27, 2000, 114 Stat. 1441, 1441A-31, provided that:

“(a) ESTABLISHMENT.—There is hereby established a commission to be known as the Commission on Affordable Housing and Health Facility Needs for Seniors in the 21st Century (in this section referred to as the ‘Commission’).

“(b) STUDY.—The duty of the Commission shall be to conduct a study that—

“(1) compiles and interprets information regarding the expected increase in the population of persons 62 years of age or older, particularly information regarding distribution of income levels, homeownership and home equity rates, and degree or extent of health and independence of living;

“(2) provides an estimate of the future needs of seniors for affordable housing and assisted living and health care facilities;

“(3) provides a comparison of estimate of such future needs with an estimate of the housing and facilities expected to be provided under existing public programs, and identifies possible actions or initiatives that may assist in providing affordable housing and assisted living and health care facilities to meet such expected needs;

“(4) identifies and analyzes methods of encouraging increased private sector participation, investment, and capital formation in affordable housing and assisted living and health care facilities for seniors through partnerships between public and private entities and other creative strategies;

“(5) analyzes the costs and benefits of comprehensive aging-in-place strategies, taking into consideration physical and mental well-being and the importance of coordination between shelter and supportive services;

“(6) identifies and analyzes methods of promoting a more comprehensive approach to dealing with housing and supportive service issues involved in aging and the multiple governmental agencies involved in such issues, including the Department of Housing and Urban Development and the Department of Health and Human Services; and

“(7) examines how to establish intergenerational learning and care centers and living arrangements, in particular to facilitate appropriate environments for families consisting only of children and a grandparent or grandparents who are the head of the household.

“(c) MEMBERSHIP.—

“(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 14 members, appointed not later than January 1, 2000, as follows:

“(A) Two co-chairpersons, of whom—

“(i) one co-chairperson shall be appointed by a committee consisting of the chairman of the Subcommittee on Housing and Community Opportunities of the House of Representatives and the chairman of the Subcommittee on Housing and Transportation of the Senate, and the chairmen of the Subcommittees on the Departments of Vet-

erans Affairs and Housing and Urban Development, and Independent Agencies of the Committees on Appropriations of the House of Representatives and the Senate; and

“(ii) one co-chairperson shall be appointed by a committee consisting of the ranking minority member of the Subcommittee on Housing and Community Opportunities of the House of Representatives and the ranking minority member of the Subcommittee on Housing and Transportation of the Senate, and the ranking minority members of the Subcommittees on the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies of the Committees on Appropriations of the House of Representatives and the Senate.

“(B) Six members appointed by the Chairman and Ranking Minority Member of the Committee on Banking and Financial Services [now Committee on Financial Services] of the House of Representatives and the Chairman and Ranking Minority Member of the Committee on Appropriations of the House of Representatives.

“(C) Six members appointed by the Chairman and Ranking Minority Member of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Chairman and Ranking Minority Member of the Committee on Appropriations of the Senate.

“(2) QUALIFICATIONS.—Appointees should have proven expertise in directing, assembling, or applying capital resources from a variety of sources to the successful development of affordable housing, assisted living facilities, or health care facilities.

“(3) VACANCIES.—Any vacancy on the Commission shall not affect its powers and shall be filled in the manner in which the original appointment was made.

“(4) CHAIRPERSONS.—The members appointed pursuant to paragraph (1)(A) shall serve as co-chairpersons of the Commission.

“(5) PROHIBITION OF PAY.—Members of the Commission shall serve without pay.

“(6) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

“(7) QUORUM.—A majority of the members of the Commission shall constitute a quorum but a lesser number may hold hearings.

“(8) MEETINGS.—The Commission shall meet at the call of the Chairpersons.

“(d) DIRECTOR AND STAFF.—

“(1) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Chairperson. The Director shall be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

“(2) STAFF.—The Commission may appoint personnel as appropriate. The staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

“(3) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for the General Schedule.

“(4) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

“(e) POWERS.—

“(1) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take

testimony, and receive evidence as the Commission considers appropriate.

“(2) **POWERS OF MEMBERS AND AGENTS.**—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

“(3) **OBTAINING OFFICIAL DATA.**—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairpersons of the Commission, the head of that department or agency shall furnish that information to the Commission.

“(4) **GIFTS, BEQUESTS, AND DEVISES.**—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

“(5) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

“(6) **ADMINISTRATIVE SUPPORT SERVICES.**—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

“(7) **CONTRACT AUTHORITY.**—The Commission may contract with and compensate Government and private agencies or persons for services, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

“(f) **REPORT.**—The Commission shall submit to the Committees on Banking and Financial Services [now Committee on Financial Services] and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate, a final report not later than December 31, 2001. The report shall contain a detailed statement of the findings and conclusions of the Commission with respect to the study conducted under subsection (b), together with its recommendations for legislation, administrative actions, and any other actions the Commission considers appropriate.

“(g) **TERMINATION.**—The Commission shall terminate on June 30, 2002. Section 14(a)(2)(B) of the Federal Advisory Committee Act (5 U.S.C. App.; relating to the termination of advisory committees) shall not apply to the Commission.”

## § 12702. Objective of national housing policy

The objective of national housing policy shall be to reaffirm the long-established national commitment to decent, safe, and sanitary housing for every American by strengthening a nationwide partnership of public and private institutions able—

(1) to ensure that every resident of the United States has access to decent shelter or assistance in avoiding homelessness;

(2) to increase the Nation's supply of decent housing that is affordable to low-income and moderate-income families and accessible to job opportunities;

(3) to improve housing opportunities for all residents of the United States, particularly members of disadvantaged minorities, on a nondiscriminatory basis;

(4) to help make neighborhoods safe and livable;

(5) to expand opportunities for homeownership;

(6) to provide every American community with a reliable, readily available supply of

mortgage finance at the lowest possible interest rates; and

(7) to encourage tenant empowerment and reduce generational poverty in federally assisted and public housing by improving the means by which self-sufficiency may be achieved.

(Pub. L. 101-625, title I, §102, Nov. 28, 1990, 104 Stat. 4085.)

## § 12703. Purposes of Cranston-Gonzalez National Affordable Housing Act

The purposes of this Act are—

(1) to help families not owning a home to save for a down payment for the purchase of a home;

(2) to retain wherever feasible as housing affordable to low-income families those dwelling units produced for such purpose with Federal assistance;

(3) to extend and strengthen partnerships among all levels of government and the private sector, including for-profit and nonprofit organizations, in the production and operation of housing affordable to low-income and moderate-income families;

(4) to expand and improve Federal rental assistance for very low-income families; and

(5) to increase the supply of supportive housing, which combines structural features and services needed to enable persons with special needs to live with dignity and independence.

(Pub. L. 101-625, title I, §103, Nov. 28, 1990, 104 Stat. 4085.)

### REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 101-625, Nov. 28, 1990, 104 Stat. 4079, known as the Cranston-Gonzalez National Affordable Housing Act. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

## § 12704. Definitions

As used in this subchapter and in subchapter II of this chapter:

(1) The term “unit of general local government” means a city, town, township, county, parish, village, or other general purpose political subdivision of a State; the Federated States of Micronesia and Palau, the Marshall Islands, or a general purpose political subdivision thereof; a consortium of such political subdivisions recognized by the Secretary in accordance with section 12746(2) of this title; and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this Act.

(2) The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the State with regard to the provisions of this Act.

(3) The term “jurisdiction” means a State or unit of general local government.

(4) The term “participating jurisdiction” means any State or unit of general local gov-

ernment that has been so designated in accordance with section 12746 of this title.

(5) The term “nonprofit organization” means any private, nonprofit organization (including a State or locally chartered, nonprofit organization) that—

(A) is organized under State or local laws,

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual,

(C) complies with standards of financial accountability acceptable to the Secretary, and

(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income and moderate-income persons.

(6) The term “community housing development organization” means a nonprofit organization as defined in paragraph (5), that—

(A) has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons;

(B) maintains, through significant representation on the organization’s governing board and otherwise, accountability to low-income community residents and, to the extent practicable, low-income beneficiaries with regard to decisions on the design, siting, development, and management of affordable housing;

(C) has a demonstrated capacity for carrying out activities assisted under this Act; and

(D) has a history of serving the local community or communities within which housing to be assisted under this Act is to be located.

In the case of an organization serving more than one county, the Secretary may not require that such organization, to be considered a community housing development organization for purposes of this Act, include as members on the organization’s governing board low-income persons residing in each county served.

(7) The term “government-sponsored mortgage finance corporations” means the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Agricultural Mortgage Corporation.

(8) The term “housing” includes manufactured housing and manufactured housing lots and elder cottage housing opportunity units that are small, free-standing, barrier-free, energy-efficient, removable, and designed to be installed adjacent to existing 1- to 4-family dwellings.

(9) The term “very low-income families” means low-income families whose incomes do not exceed 50 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(10) The term “low-income families” means families whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(11) The term “families” has the same meaning given that term by section 1437a of this title.

(12) The term “security” has the same meaning as in section 77b of title 15.

(13) The term “displaced homemaker” means an individual who—

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and

(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(14) The term “first-time homebuyer” means an individual and his or her spouse who have not owned a home during the 3-year period prior to purchase of a home with assistance under subchapter II of this chapter, except that—

(A) any individual who is a displaced homemaker may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse;

(B) any individual who is a single parent may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse; and

(C) an individual shall not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual owns or owned, as a principal residence during such 3-year period, a dwelling unit whose structure is—

(i) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations, or

(ii) not in compliance with State, local, or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

(15) The term “single parent” means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(16) The term “Secretary” means the Secretary of Housing and Urban Development, unless otherwise specified in this Act.

(17) The term “substantial rehabilitation” means the rehabilitation of residential property at an average cost in excess of \$25,000 per dwelling unit.

(18) The term “public housing agency” has the meaning given the term in section 1437a(b) of this title.

(19) The term “metropolitan city” has the meaning given the term in section 5302(a)(4) of this title.

(20) The term “urban county” has the meaning given the term in section 5302(a)(6) of this title.

(21) The term “certification” means a written assertion, based on supporting evidence, which shall be kept available for inspection by the Secretary, the Inspector General and the public, which assertion shall be deemed to be accurate for purposes of this Act, unless the Secretary determines otherwise after inspecting the evidence and providing due notice and opportunity for comment.

(23)<sup>1</sup> The term “to demonstrate to the Secretary” means to submit to the Secretary a written assertion together with supporting evidence that, in the determination of the Secretary, supports the accuracy of the assertion.

(24)<sup>2</sup> The term “insular area” means any of the following: Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.

(24)<sup>2</sup> The term “energy efficient mortgage” means a mortgage that provides financing incentives for the purchase of energy efficient homes, or that provides financing incentives to make energy efficiency improvements in existing homes by incorporating the cost of such improvements in the mortgage.

(25) The term “energy efficient mortgage” means a mortgage that provides financing incentives for the purchase of energy efficient homes, or that provides financing incentives to make energy efficiency improvements in existing homes by incorporating the cost of such improvements in the mortgage.

(Pub. L. 101-625, title I, §104, Nov. 28, 1990, 104 Stat. 4085; Pub. L. 102-229, title I, Dec. 12, 1991, 105 Stat. 1709; Pub. L. 101-230, §2, Dec. 12, 1991, 105 Stat. 1720; Pub. L. 102-486, title I, §105(a), Oct. 24, 1992, 106 Stat. 2792; Pub. L. 102-550, title II, §§211(a)(1), 217(a), 218, 219, title IX, §914(a), Oct. 28, 1992, 106 Stat. 3756, 3760, 3761, 3877; Pub. L. 103-233, title II, §201, Apr. 11, 1994, 108 Stat. 363.)

#### REFERENCES IN TEXT

This Act, referred to in pars. (1), (2), (6), (16), and (21), is Pub. L. 101-625, Nov. 28, 1990, 104 Stat. 4079, as amended, known as the Cranston-Gonzalez National Affordable Housing Act. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

#### AMENDMENTS

1994—Par. (2). Pub. L. 103-233 struck out “and” after “Columbia,” and inserted before period at end “, or

<sup>1</sup> So in original. Probably should be “(22)”.

<sup>2</sup> So in original. Two pars. (24) have been enacted.

any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the State with regard to the provisions of this Act”.

1992—Par. (1). Pub. L. 102-550, §211(a)(1), amended this section to read as if amendment made by Pub. L. 102-230, §2(1), had not been enacted. See 1991 Amendment note below.

Par. (6). Pub. L. 102-550, §217(a), inserted concluding provisions.

Par. (8). Pub. L. 102-550, §218, inserted before period at end “and elder cottage housing opportunity units that are small, free-standing, barrier-free, energy-efficient, removable, and designed to be installed adjacent to existing 1- to 4-family dwellings”.

Par. (14)(C). Pub. L. 102-550, §219, added subpar. (C).

Par. (24). Pub. L. 102-550, §211(a)(1), amended this section to read as if amendment made by Pub. L. 102-230, §2(2), had not been enacted. See 1991 Amendment note below.

Pub. L. 102-486 added par. (24) defining “energy efficient mortgage”.

Par. (25). Pub. L. 102-550, §914(a), added par. (25).

1991—Par. (1). Pub. L. 102-230, §2(1), directed the substitution of “the insular areas” for “Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Federated States of Micronesia and Palau, the Marshall Islands”. See 1992 Amendment note above.

Pub. L. 102-229 struck out “Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa,” after “of a State”.

Par. (24). Pub. L. 102-230, §2(2), directed the addition of a par. (24) to read as follows: “(24) The term ‘insular areas’ means Guam, the Northern Mariana Islands, the United States Virgin Islands, and American Samoa.” See 1992 Amendment note above.

Pub. L. 102-229 added par. (24) defining “insular area”.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-233 applicable with respect to any amounts made available to carry out subchapter II (§12721 et seq.) of this chapter after Apr. 11, 1994, and any amounts made available to carry out that subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out such amendment not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103-233, set out as a note under section 5301 of this title.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Section 211(b) of Pub. L. 102-550 provided that: “The amendments made by subsection (a) [amending this section and section 12747 of this title] shall apply with respect to fiscal year 1993 and thereafter.”

Section 223 of title II of Pub. L. 102-550 provided that: “The amendments made by this title [enacting section 12810 of this title and amending this section and sections 12705, 12724, 12742, 12745 to 12748, 12750, 12771, 12773, 12774, 12782, and 12784 of this title] shall apply to unexpended funds allocated under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.] in fiscal year 1992, except as otherwise specifically provided.”

#### REGULATIONS

Section 222 of title II of Pub. L. 102-550 provided that: “The Secretary of Housing and Urban Development shall issue any final regulations necessary to implement the provisions of this title [enacting section 12810 of this title, amending this section and sections 12705, 12724, 12742, 12745 to 12748, 12750, 12771, 12773, 12774, 12782, and 12784 of this title, and enacting provisions set out as notes under this section and sections 12746, 12747, and 12750 of this title] and the amendments made by this title not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Oct. 28, 1992], except as expressly provided otherwise in this title and the amendments made by this title. Such

regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).”

#### TRANSITION RULE

Section 217(b) of Pub. L. 102-550 provided that: “For the purposes of determining compliance with the requirements of section 104(6) of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12704(6)], the Secretary of Housing and Urban Development may provide an exception for organizations that meet the definition of community housing development organization, except for significant representation of low-income community residents on the board, if such organization fulfills such requirement within 6 months of receiving funds under title II of such Act [42 U.S.C. 12721 et seq.] or September 30, 1993, whichever is sooner.”

### § 12705. State and local housing strategies

#### (a) In general

The Secretary shall provide assistance directly to a jurisdiction only if—

- (1) the jurisdiction submits to the Secretary a comprehensive housing affordability strategy (hereafter in this section referred to as the “housing strategy”);
- (2) the jurisdiction submits annual updates of the housing strategy; and
- (3) the housing strategy, and any annual update of such strategy, is approved by the Secretary.

The Secretary shall establish such dates and manner for the submission and approval of housing strategies under this section that the Secretary determines will facilitate orderly program management by jurisdictions and provide for timely investment or other use of funds made available under subchapter II of this chapter and other programs requiring submission of a housing strategy. If the Secretary finds there is good cause, the Secretary may provide reasonable extensions of any deadlines for submission of a jurisdiction’s housing strategy.

#### (b) Contents

A housing strategy submitted under this section shall be in a form that the Secretary determines to be appropriate for the assistance the jurisdiction may be provided and shall—

- (1) describe the jurisdiction’s estimated housing needs projected for the ensuing 5-year period, and the jurisdiction’s need for assistance for very low-income, low-income, and moderate-income families, specifying such needs for different types of tenure and for different categories of residents, such as very low-income, low-income, and moderate-income families, the elderly, persons with disabilities, single persons, large families, residents of non-metropolitan areas, families who are participating in an organized program to achieve economic independence and self-sufficiency, persons with acquired immunodeficiency syndrome, victims of domestic violence, dating violence, sexual assault, and stalking and other categories of persons residing in or expected to reside in the jurisdiction that the Secretary determines to be appropriate;
- (2) describe the nature and extent of homelessness, including rural homelessness, within the jurisdiction, providing an estimate of the

special needs of various categories of persons who are homeless or threatened with homelessness, including tabular representation of such information, and a description of the jurisdiction’s strategy for (A) helping low-income families avoid becoming homeless; (B) addressing the emergency shelter and transitional housing needs of homeless persons (including a brief inventory of facilities and services that meet such needs within that jurisdiction); and (C) helping homeless persons make the transition to permanent housing and independent living;

(3) describe the significant characteristics of the jurisdiction’s housing market, indicating how those characteristics will influence the use of funds made available for rental assistance, production of new units, rehabilitation of old units, or acquisition of existing units;

(4) explain whether the cost of housing or the incentives to develop, maintain, or improve affordable housing in the jurisdiction are affected by public policies, particularly by policies of the jurisdiction, including tax policies affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on residential investment, and describe the jurisdiction’s strategy to remove or ameliorate negative effects, if any, of such policies, except that, if a State requires a unit of general local government to submit a regulatory barrier assessment that is substantially equivalent to the information required under this paragraph, as determined by the Secretary, the unit of general local government may submit its assessment submitted to the State to the Secretary and shall be considered to have complied with this paragraph;

(5) explain the institutional structure, including private industry, nonprofit organizations, and public institutions, through which the jurisdiction will carry out its housing strategy, assessing the strengths and gaps in that delivery system and describing what the jurisdiction will do to overcome those gaps;

(6) indicate resources from private and non-Federal public sources that are reasonably expected to be made available to carry out the purposes of this Act, explaining how funds made available will leverage those additional resources and identifying, where the jurisdiction deems it appropriate, publicly owned land or property located within the jurisdiction that may be utilized to carry out the purposes of this Act;

(7) set forth the jurisdiction’s plan for investment or other use of housing funds made available under subchapter II of this chapter, the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], the Housing and Community Development Act of 1974, and the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11301 et seq.], during the ensuing year or such longer period as the Secretary determines to be appropriate, indicating the general priorities for allocating investment geographically within the jurisdiction and among different activities and housing needs;

(8) describe how the jurisdiction’s plan will address the housing needs identified pursuant



to subparagraphs<sup>1</sup> (1) and (2), describe the reasons for allocation priorities, and identify any obstacles to addressing underserved needs;

(9) describe the means of cooperation and coordination among the State and any units of general local government in the development, submission, and implementation of their housing strategies;

(10) in the case of a unit of local government, describe the number of public housing units in the jurisdiction, the physical condition of such units, the restoration and revitalization needs of public housing projects within the jurisdiction, the public housing agency's strategy for improving the management and operation of such public housing, and the public housing agency's strategy for improving the living environment of low- and very-low-income families residing in public housing;

(11) describe the manner in which the plan of the jurisdiction will help address the needs of public housing;

(12) in the case of a State, describe the strategy to coordinate the Low-Income Tax Credit with development of housing, including public housing, that is affordable to very low-income and low-income families;

(13) describe the jurisdiction's activities to encourage public housing residents to become more involved in management and participate in homeownership;

(14) describe the standards and procedures according to which the jurisdiction will monitor activities authorized under this Act and ensure long-term compliance with the provisions of this Act;

(15) include a certification that the jurisdiction will affirmatively further fair housing;

(16) include a certification that the jurisdiction has in effect and is following a residential antidisplacement and relocation assistance plan that, in any case of any such displacement in connection with any activity assisted with amounts provided under subchapter II of this chapter, requires the same actions and provides the same rights as required and provided under a residential antidisplacement and relocation assistance plan under section 104(d) of the Housing and Community Development Act of 1974 [42 U.S.C. 5304(d)] in the event of displacement in connection with a development project assisted under section 106 or 119 of such Act [42 U.S.C. 5306, 5318];

(17) estimate the number of housing units within the jurisdiction that are occupied by low-income families or very low-income families and that contain lead-based paint hazards, as defined in section 4851b of this title, outline the actions proposed or being taken to evaluate and reduce lead-based paint hazards, and describe how lead-based paint hazard reduction will be integrated into housing policies and programs;

(18) include the number of families to whom the jurisdiction will provide affordable housing as defined in section 12745 of this title using funds made available;

(19) for any housing strategy submitted for fiscal year 1994 or any fiscal year thereafter

and taking into consideration factors over which the jurisdiction has control, describe the jurisdiction's goals, programs, and policies for reducing the number of households with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually), and, in consultation with other appropriate public and private agencies, state how the jurisdiction's goals, programs, and policies for producing and preserving affordable housing set forth in the housing strategy will be coordinated with other programs and services for which the jurisdiction is responsible and the extent to which they will reduce (or assist in reducing) the number of households with incomes below the poverty line; and

(20) describe the jurisdictions activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health, and service agencies.

The Secretary may provide for the submission of abbreviated housing strategies by jurisdictions that are not otherwise expected to be participating jurisdictions under subchapter II of this chapter. Such an abbreviated housing strategy shall be appropriate to the types and amounts of assistance the jurisdiction is to receive as determined by the Secretary.

#### **(c) Approval**

##### **(1) In general**

The Secretary shall review the housing strategy upon receipt. Not later than 60 days after receipt by the Secretary, the housing strategy shall be approved unless the Secretary determines before that date that (A) the housing strategy is inconsistent with the purposes of this Act, or (B) the information described in subsection (b) of this section has not been provided in a substantially complete manner. For the purpose of the preceding sentence, the adoption or continuation of a public policy identified pursuant to subsection (b)(4) of this section shall not be a basis for the Secretary's disapproval of a housing strategy. During the 18-month period following November 28, 1990, the Secretary may extend the review period to not longer than 90 days.

##### **(2) Actions in case of disapproval**

If the Secretary disapproves the housing strategy, the Secretary shall immediately notify the jurisdiction of such disapproval. Not later than 15 days after the Secretary's disapproval, the Secretary shall inform the jurisdiction in writing of (A) the reasons for disapproval, and (B) actions that the jurisdiction could take to meet the criteria for approval. If the Secretary fails to inform the jurisdiction of the reasons for disapproval within such 15-day period, the housing strategy shall be deemed to have been approved.

##### **(3) Amendments and resubmission**

The Secretary shall, for a period of not less than 45 days following the date of first disapproval, permit amendments to, or the resubmission of, any housing strategy that is disapproved. The Secretary shall approve or dis-

<sup>1</sup> So in original. Probably should be "paragraphs".

approve a housing strategy not less than 30 days after receipt of such amendments or re-submission.

**(d) Coordination of State and local housing strategies**

The Secretary may establish such requirements as the Secretary deems appropriate to encourage coordination between and among the housing strategies of a State and any participating jurisdictions within the State, except that a unit of general local government shall not be required to have elements of its housing strategy approved by the State.

**(e) Consultation with social service agencies**

**(1) In general**

When preparing a housing strategy for submission under this section, a jurisdiction shall make reasonable efforts to confer with appropriate social service agencies regarding the housing needs of children, elderly persons, persons with disabilities, homeless persons, and other persons served by such agencies.

**(2) Lead-based paint hazards**

When preparing that portion of a housing strategy required by subsection (b)(16) of this section, a jurisdiction shall consult with State or local health and child welfare agencies and examine existing data related to lead-based paint hazards and poisonings, including health department data on the addresses of housing units in which children have been identified as lead poisoned.

**(f) Barrier removal**

Not later than 4 months after completion of the final report of the Secretary's Advisory Commission on Regulatory Barriers to Affordable Housing, the Secretary shall submit to the Congress a written report outlining the Secretary's recommendations for legislative and administrative actions to facilitate the removal or modification of excessive, duplicative, or unnecessary regulations or other requirements of Federal, State, or local governments that (1) inflate the costs of or otherwise inhibit the construction, rehabilitation, or management of housing, particularly housing that otherwise could be affordable to low-income and moderate-income families, or (2) contribute to economic or racial discrimination.

**(g) Treatment of troubled public housing agencies**

**(1) Effect of troubled status on CHAS**

The comprehensive housing affordability strategy (or any consolidated plan incorporating such strategy) for the State or unit of general local government in which any troubled public housing agency is located shall not be considered to comply with the requirements under this section unless such plan includes a description of the manner in which the State or unit will provide financial or other assistance to such troubled agency in improving its operations to remove such designation.

**(2) Definition**

For purposes of this subsection, the term "troubled public housing agency" means a

public housing agency that, upon the effective date of the Quality Housing and Work Responsibility Act of 1998, is designated under section 6(j)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437d(j)(2)] as a troubled public housing agency.

(Pub. L. 101-625, title I, §105, Nov. 28, 1990, 104 Stat. 4088; Pub. L. 102-550, title II, §220, title VI, §681, title X, §1014, title XII, §1206, Oct. 28, 1992, 106 Stat. 3761, 3830, 3908, 3940; Pub. L. 105-276, title V, §§568, 583, Oct. 21, 1998, 112 Stat. 2634, 2644; Pub. L. 106-400, §2, Oct. 30, 2000, 114 Stat. 1675; Pub. L. 109-162, title VI, §604, Jan. 5, 2006, 119 Stat. 3040.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (b)(6), (14) and (c)(1), is Pub. L. 101-625, Nov. 28, 1990, 104 Stat. 4079, known as the Cranston-Gonzalez National Affordable Housing Act. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

The United States Housing Act of 1937, referred to in subsec. (b)(7), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

The Housing and Community Development Act of 1974, referred to in subsec. (b)(7), is Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (b)(7), is Pub. L. 100-77, July 22, 1987, 101 Stat. 482, as amended, which is classified principally to chapter 119 (§11301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

The effective date of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (g)(2), probably means the general effective date for title V of Pub. L. 105-276, included in section 503 of Pub. L. 105-276 which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

AMENDMENTS

2006—Subsec. (b)(1). Pub. L. 109-162 inserted "victims of domestic violence, dating violence, sexual assault, and stalking" after "immunodeficiency syndrome."

2000—Subsec. (b)(7). Pub. L. 106-400 substituted "McKinney-Vento Homeless Assistance Act" for "Stewart B. McKinney Homeless Assistance Act".

1998—Subsec. (b). Pub. L. 105-276, §583(1), transferred flush provisions relating to abbreviated housing strategies to end of subsection to follow last numbered paragraph.

Subsec. (b)(11) to (15). Pub. L. 105-276, §583(6), (7), added par. (11) and redesignated former pars. (11) to (14) as (12) to (15), respectively. Former par. (15) redesignated (16).

Subsec. (b)(16). Pub. L. 105-276, §583(6), redesignated par. (15) as (16). Former par. (16), relating to housing units that contain lead-based paint hazards, redesignated (17), and former par. (16), relating to number of families to whom jurisdiction will provide affordable housing, redesignated (18).

Pub. L. 105-276, §583(5)(A), substituted "programs;" for "programs." in par. (16) relating to housing units that contain lead-based paint hazards.

Pub. L. 105-276, §583(4)(A), struck out "and" at end of par. (16) relating to number of families to whom jurisdiction will provide affordable housing.

Subsec. (b)(17). Pub. L. 105-276, §583(5)(B), redesignated par. (16), relating to housing units that contain lead-based paint hazards, as (17). Former par. (17), re-

lating to reducing the number of households within a jurisdiction with incomes below the poverty line, redesignated (19), and former par. (17), relating to activities to enhance coordination, redesignated (20).

Subsec. (b)(18). Pub. L. 105-276, § 583(4)(B), redesignated par. (16), relating to number of families to whom jurisdiction will provide affordable housing, as (18).

Subsec. (b)(19). Pub. L. 105-276, § 583(3), redesignated par. (17), relating to reducing the number of households within a jurisdiction with incomes below the poverty line, as (19).

Subsec. (b)(20). Pub. L. 105-276, § 583(2), redesignated par. (17), relating to activities to enhance coordination, as (20).

Subsec. (g). Pub. L. 105-276, § 568, added subsec. (g). 1992—Subsec. (b)(1). Pub. L. 102-550, § 681(1), inserted “persons with disabilities,” after “the elderly.”

Subsec. (b)(2). Pub. L. 102-550, § 220(a), inserted “, including rural homelessness,” after “extent of homelessness” and “including tabular representation of such information,” after “with homelessness.”

Subsec. (b)(4). Pub. L. 102-550, § 1206, inserted before semicolon at end “, except that, if a State requires a unit of general local government to submit a regulatory barrier assessment that is substantially equivalent to the information required under this paragraph, as determined by the Secretary, the unit of general local government may submit its assessment submitted to the State to the Secretary and shall be considered to have complied with this paragraph.”

Subsec. (b)(8). Pub. L. 102-550, § 220(c)(2), added par. (8). Former par. (8) redesignated (9).

Subsec. (b)(9) to (13). Pub. L. 102-550, § 220(c)(1), redesignated pars. (8) to (12) as (9) to (13), respectively. Former par. (13) redesignated (14).

Subsec. (b)(14). Pub. L. 102-550, § 220(c)(1), redesignated par. (13) as (14). Former par. (14) redesignated (15).

Pub. L. 102-550, § 220(b)(1), added par. (14) and struck out former par. (14) which read as follows: “include a certification that the jurisdiction is in compliance with a residential antidisplacement and relocation assistance plan under section 104(d) of the Housing and Community Development Act of 1974 (to the extent that such a plan applies to the jurisdiction); and”.

Subsec. (b)(15). Pub. L. 102-550, § 220(c)(1), redesignated par. (14) as (15). Former par. (15) redesignated (16).

Subsec. (b)(16). Pub. L. 102-550, § 1014(3), added par. (16) relating to housing units that contain lead-based paint hazards.

Pub. L. 102-550, § 220(c)(1), redesignated par. (15) as (16). Former par. (16) redesignated (17).

Pub. L. 102-550, § 220(b)(3), added at end par. (16) relating to reducing the number of households within a jurisdiction with incomes below the poverty line.

Subsec. (b)(17). Pub. L. 102-550, § 681(2), which directed amendment of subsec. (b) by adding “after paragraph (16), as added by the preceding provisions of this Act”, a new par. (17) relating to activities to enhance coordination, was executed by adding that par. (17) after par. (17) (formerly par. (16), relating to reducing the number of households within a jurisdiction with incomes below the poverty line, to reflect the probable intent of Congress.

Pub. L. 102-550, § 220(c)(1), redesignated par. (16), relating to reducing the number of households within a jurisdiction with incomes below the poverty line, as (17).

Subsec. (e). Pub. L. 102-550, § 1014(4), designated existing provisions as par. (1), inserted heading, and added par. (2).

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105-276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105-276, set out as a note under section 1437 of this title.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 220 of Pub. L. 102-550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102-550, set out as a note under section 12704 of this title.

Amendment by subtitles B through F of title VI [§§ 621-685] of Pub. L. 102-550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.

### § 12705a. Purposes of Removal of Regulatory Barriers to Affordable Housing Act

The purposes of sections 12705a to 12705d of this title are—

(1) to encourage State and local governments to further identify and remove regulatory barriers to affordable housing (including barriers that are excessive, unnecessary, duplicative, or exclusionary) that significantly increase costs and limit the supply of affordable housing; and

(2) to strengthen the connection between Federal housing assistance and State and local efforts to identify and eliminate regulatory barriers.

(Pub. L. 102-550, title XII, § 1202, Oct. 28, 1992, 106 Stat. 3938.)

#### REFERENCES IN TEXT

Sections 12705a to 12705d of this title, referred to in text, were in the original “this title”, meaning title XII of Pub. L. 102-550, Oct. 28, 1992, 106 Stat. 3938, known as the Removal of Regulatory Barriers to Affordable Housing Act of 1992, which enacted sections 12705a to 12705d of this title, amended sections 5306 and 12705 of this title, and enacted provisions set out as a note below.

#### CODIFICATION

Section was enacted as part of the Removal of Regulatory Barriers to Affordable Housing Act of 1992, and also as part of the Housing and Community Development Act of 1992, and not as part of the Cranston-Gonzalez National Affordable Housing Act which comprises this chapter.

#### SHORT TITLE

Section 1201 of title XII of Pub. L. 102-550 provided that: “This title [enacting this section and sections 12705b to 12705d of this title, amending sections 5306 and 12705 of this title, and enacting provisions set out as a note below] may be cited as the ‘Removal of Regulatory Barriers to Affordable Housing Act of 1992’.”

#### REPORT BY SECRETARY

Pub. L. 102-550, title XII, § 1207, Oct. 28, 1992, 106 Stat. 3941, provided that not later than 2 years after Oct. 28, 1992, the Secretary of Housing and Urban Development submit a report to Congress describing any successful State and local strategies for removal of barriers to affordable housing, assessing impact of identified regulatory barriers on housing patterns of minorities, and describing any strategies developed or implemented by Department of Housing and Urban Development for reducing barriers to affordable housing imposed by Federal Government, prior to repeal by Pub. L. 105-362, title VII, § 701(b), Nov. 10, 1998, 112 Stat. 3287.

### § 12705b. Definition of regulatory barriers to affordable housing

For purposes of sections 12705a to 12705d of this title, the terms “regulatory barriers to affordable housing” and “regulatory barriers” mean

any public policies (including policies embodied in statutes, ordinances, regulations, or administrative procedures or processes) required to be identified by a jurisdiction in connection with its comprehensive housing affordability strategy under section 12705(b)(4) of this title. Such terms do not include policies relating to rents imposed on a structure by a jurisdiction or policies that have served to create or preserve, or can be shown to create or preserve, housing for low- and very low-income families, including displacement protections, demolition controls, replacement housing requirements, relocation benefits, housing trust funds, dedicated funding sources, waiver of local property taxes and builder fees, inclusionary zoning, rental zoning overlays, long-term use restrictions, and rights of first refusal.

(Pub. L. 102-550, title XII, § 1203, Oct. 28, 1992, 106 Stat. 3938.)

#### REFERENCES IN TEXT

Sections 12705a to 12705d of this title, referred to in text, were in the original “this title”, meaning title XII of Pub. L. 102-550, Oct. 28, 1992, 106 Stat. 3938, known as the Removal of Regulatory Barriers to Affordable Housing Act of 1992, which enacted sections 12705a to 12705d of this title, amended sections 5306 and 12705 of this title, and enacted provisions set out as notes under section 12705a of this title.

#### CODIFICATION

Section was enacted as part of the Removal of Regulatory Barriers to Affordable Housing Act of 1992, and also as part of the Housing and Community Development Act of 1992, and not as part of the Cranston-Gonzalez National Affordable Housing Act which comprises this chapter.

### § 12705c. Grants for regulatory barrier removal strategies and implementation

#### (a) Funding

There is authorized to be appropriated for grants under subsections (b) and (c)<sup>1</sup> of this section such sums as may be necessary for each of fiscal years 2001, 2002, 2003, 2004, and 2005.

#### (b) Grant authority

The Secretary may make grants to States and units of general local government (including consortia of such governments) for the costs of developing and implementing strategies to remove regulatory barriers to affordable housing, including the costs of—

- (1) identifying, assessing, and monitoring State and local regulatory barriers;
- (2) identifying State and local policies (including laws and regulations) that permit or encourage regulatory barriers;
- (3) developing legislation to provide State, local, or regional programs to reduce regulatory barriers and developing a strategy for adoption of such legislation;
- (4) developing model State or local standards and ordinances to reduce regulatory barriers and assisting in the adoption and use of the standards and ordinances;
- (5) carrying out the simplification and consolidation of administrative procedures and processes constituting regulatory barriers to

affordable housing, including the issuance of permits; and

- (6) providing technical assistance and information to units of general local government for implementation of legislative and administrative reform programs to remove regulatory barriers to affordable housing.

**(c) Repealed. Pub. L. 106-569, title I, § 102(c), Dec. 27, 2000, 114 Stat. 2947**

#### (d) Definitions

For purposes of this section, the terms “regulatory barriers to affordable housing” and “regulatory barriers” have the meaning given such terms in section 12705b of this title.

#### (e) Application and selection

The Secretary shall provide for the form and manner of applications for grants under this section, which shall describe how grant amounts will assist the State or unit of general local government in developing and implementing strategies to remove regulatory barriers to affordable housing. The Secretary shall establish criteria for approval of applications under this subsection and such criteria shall require that grant amounts be used in a manner consistent with the strategy contained in the comprehensive housing affordability strategy for the jurisdiction pursuant to section 12705(b)(4) of this title.

#### (f) Selection of grantees

To the extent amounts are made available to carry out this section, the Secretary shall provide grants on a competitive basis to eligible grantees based on the proposed uses of such amounts, as provided in applications under subsection (e) of this section.

#### (g) Coordination with clearinghouse

Each State and unit of general local government receiving a grant under this section, shall consult, coordinate, and exchange information with the clearinghouse established under section 12705d of this title.

#### (h) Reports to Secretary

Each State and unit of general local government receiving a grant under this section shall submit a report to the Secretary, not less than 12 months after receiving the grant, describing any activities carried out with the grant amounts. The report shall contain an assessment of the impact of any regulatory barriers identified by the grantee on the housing patterns of minorities.

(Pub. L. 102-550, title XII, § 1204, Oct. 28, 1992, 106 Stat. 3938; Pub. L. 106-569, title I, § 102(a)-(e), Dec. 27, 2000, 114 Stat. 2946, 2947.)

#### REFERENCES IN TEXT

Subsection (c) of this section, referred to in subsec. (a), was repealed by Pub. L. 106-569, title I, § 102(c), Dec. 27, 2000, 114 Stat. 2947.

#### CODIFICATION

Section was enacted as part of the Removal of Regulatory Barriers to Affordable Housing Act of 1992, and also as part of the Housing and Community Development Act of 1992, and not as part of the Cranston-Gonzalez National Affordable Housing Act which comprises this chapter.

<sup>1</sup> See References in Text note below.

Section is comprised of section 1204 of Pub. L. 102-550. Subsection (i) of section 1204 of Pub. L. 102-550 amended section 5306 of this title.

#### AMENDMENTS

2000—Subsec. (a). Pub. L. 106-569, §102(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “The amounts set aside under section 5307 of this title for the purpose of this subsection shall be available for grants under subsection (b) and (c) of this section.”

Subsec. (b). Pub. L. 106-569, §102(b)(1), (2), substituted “Grant authority” for “State grants” in heading and inserted “and units of general local government (including consortia of such governments)” after “States” in introductory provisions.

Subsec. (b)(3). Pub. L. 106-569, §102(b)(3), substituted “State, local, or regional programs to reduce” for “a State program to reduce State and local”.

Subsec. (b)(4). Pub. L. 106-569, §102(b)(4), inserted “or local” after “State”.

Subsec. (b)(5). Pub. L. 106-569, §102(b)(5), struck out “State” before “administrative procedures”.

Subsec. (c). Pub. L. 106-569, §102(c), struck out heading and text of subsec. (c) which related to local grants.

Subsec. (e). Pub. L. 106-569, §102(d), substituted “and such criteria shall require that grant amounts be used in a manner consistent with the strategy contained in the comprehensive housing affordability strategy for the jurisdiction pursuant to section 12705(b)(4) of this title” for “and for the selection of units of general local government to receive grants under subsection (f)(2) of this section” before period at end.

Subsec. (f). Pub. L. 106-569, §102(e), amended heading and text of subsec. (f) generally, substituting provisions relating to selection of grantees for provisions relating to allocation of amounts.

### § 12705d. Regulatory barriers clearinghouse

#### (a) Establishment

The Secretary of Housing and Urban Development shall establish a clearinghouse to serve as a national repository to receive, collect, process, assemble, and disseminate information regarding—

(1) State and local laws, regulations, and policies affecting the development, maintenance, improvement, availability, or cost of affordable housing (including tax policies affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on investment in residential property), and the prevalence and effects on affordable housing of such laws, regulations, and policies;

(2) State and local activities, strategies, and plans to remove or ameliorate the negative effects, if any, of such laws, regulations, and policies, including particularly innovative or successful activities, strategies, and plans; and

(3) State and local strategies, activities and plans that promote affordable housing and housing desegregation, including particularly innovative or successful strategies, activities, and plans.

#### (b) Functions

The clearinghouse established under subsection (a) of this section shall—

(1) respond to inquiries from State and local governments, other organizations, and individuals requesting information regarding State and local laws, regulations, policies, activities, strategies, and plans described in subsection (a) of this section;

(2) provide assistance in identifying, examining, and understanding such laws, regulations, policies, activities, strategies, and plans; and

(3) by making available through a World Wide Web site of the Department, by electronic mail, or otherwise, provide to each housing agency of a unit of general local government that serves an area having a population greater than 100,000, an index of all State and local strategies and plans submitted under subsection (a) of this section to the clearinghouse, which—

(A) shall describe the types of barriers to affordable housing that the strategy or plan was designed to ameliorate or remove; and

(B) shall, not later than 30 days after submission to the clearinghouse of any new strategy or plan, be updated to include the new strategy or plan submitted.

#### (c) Organization

The clearinghouse under this section shall be established within the Office of Policy Development of the Department of Housing and Urban Development and shall be under the direction of the Assistant Secretary for Policy Development and Research.

#### (d) Timing

The clearinghouse under this section (as amended by section 103 of the Housing Affordability Barrier Removal Act of 2000) shall be established and commence carrying out the functions of the clearinghouse under this section not later than 1 year after December 27, 2000. The Secretary of Housing and Urban Development may comply with the requirements under this section by reestablishing the clearinghouse that was originally established to comply with this section and updating and improving such clearinghouse to the extent necessary to comply with the requirements of this section as in effect pursuant to the enactment of such Act.

(Pub. L. 102-550, title XII, §1205, Oct. 28, 1992, 106 Stat. 3940; Pub. L. 106-569, title I, §103, Dec. 27, 2000, 114 Stat. 2947.)

#### REFERENCES IN TEXT

The Housing Affordability Barrier Removal Act of 2000, referred to in subsec. (d), is title I of Pub. L. 106-569, Dec. 27, 2000, 114 Stat. 2946. Section 103 of the Act amended this section. For complete classification of this Act to the Code, see Short Title of 2000 Amendment note set out under section 12701 of this title and Tables.

#### CODIFICATION

Section was enacted as part of the Removal of Regulatory Barriers to Affordable Housing Act of 1992, and also as part of the Housing and Community Development Act of 1992, and not as part of the Cranston-Gonzalez National Affordable Housing Act which comprises this chapter.

#### AMENDMENTS

2000—Subsec. (a). Pub. L. 106-569, §103(1)(A), substituted “serve as a national repository to receive, collect, process, assemble, and disseminate” for “receive, collect, process, and assemble” in introductory provisions.

Subsec. (a)(1). Pub. L. 106-569, §103(1)(B), substituted “(including” for “, including” and inserted “), and the prevalence and effects on affordable housing of such laws, regulations, and policies” before semicolon at end.

Subsec. (a)(2). Pub. L. 106-569, §103(1)(C), inserted before semicolon “, including particularly innovative or successful activities, strategies, and plans”.

Subsec. (a)(3). Pub. L. 106-569, §103(1)(D), inserted before period at end “, including particularly innovative or successful strategies, activities, and plans”.

Subsec. (b)(3). Pub. L. 106-569, §103(2), added par. (3).

Subsecs. (c), (d). Pub. L. 106-569, §103(3), added subsecs. (c) and (d).

### § 12706. Certification

The Secretary shall, by regulation or otherwise, as deemed by the Secretary to be appropriate, require any application for housing assistance under subchapter II of this chapter, assistance under the Housing and Community Development Act of 1974, or assistance under the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11301 et seq.], to contain or be accompanied by a certification by an appropriate State or local public official that the proposed housing activities are consistent with the housing strategy of the jurisdiction to be served.

(Pub. L. 101-625, title I, §106, Nov. 28, 1990, 104 Stat. 4091; Pub. L. 106-400, §2, Oct. 30, 2000, 114 Stat. 1675.)

#### REFERENCES IN TEXT

The Housing and Community Development Act of 1974, referred to in text, is Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

The McKinney-Vento Homeless Assistance Act, referred to in text, is Pub. L. 100-77, July 22, 1987, 101 Stat. 482, as amended, which is classified principally to chapter 119 (§11301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

#### AMENDMENTS

2000—Pub. L. 106-400 substituted “McKinney-Vento Homeless Assistance Act” for “Stewart B. McKinney Homeless Assistance Act”.

### § 12707. Citizen participation

#### (a) In general

Before submitting a housing strategy under this section,<sup>1</sup> a jurisdiction shall—

(1) make available to its citizens, public agencies, and other interested parties information concerning the amount of assistance the jurisdiction expects to receive and the range of investment or other uses of such assistance that the jurisdiction may undertake;

(2) publish a proposed housing strategy in a manner that, in the determination of the Secretary, affords affected citizens, public agencies, and other interested parties a reasonable opportunity to examine its content and to submit comments on the proposed housing strategy;

(3) hold one or more public hearings to obtain the views of citizens, public agencies, and other interested parties on the housing needs of the jurisdiction; and

(4) provide citizens, public agencies, and other interested parties with reasonable access to records regarding any uses of any as-

<sup>1</sup> So in original. The words “this section” probably should be “section 12705 of this title”.

sistance the jurisdiction may have received during the preceding 5 years.

#### (b) Notice and comment

Before submitting any performance report or substantial amendment to a housing strategy under this section,<sup>1</sup> a participating jurisdiction shall provide citizens with reasonable notice of, and opportunity to comment on, such performance report or substantial amendment prior to its submission.

#### (c) Consideration of comments

A participating jurisdiction shall consider any comments or views of citizens in preparing a final housing strategy, amendment to a housing strategy or performance report for submission. A summary of such comments or views shall be attached when a housing strategy, amendment to a housing strategy or performance report is submitted. The submitted housing strategy, amendment, or report shall be made available to the public.

#### (d) Regulations

The Secretary shall by regulation establish procedures appropriate and practicable for providing a fair hearing and timely resolution of citizen complaints related to housing strategies or performance reports.

(Pub. L. 101-625, title I, §107, Nov. 28, 1990, 104 Stat. 4091.)

### § 12708. Compliance

#### (a) Performance reports

##### (1) In general

Each participating jurisdiction shall annually review and report, in a form acceptable to the Secretary, on the progress it has made in carrying out its housing strategy, which report shall include an evaluation of the jurisdiction's progress in meeting its goal established in section 12705(b)(15)<sup>1</sup> of this title, and information on the number and types of households served, including the number of very low-income, low-income, and moderate-income persons served and the racial and ethnic status of persons served that will be assisted with funds made available.

##### (2) Submission

The Secretary shall (A) establish dates for submission of reports under this subsection, and (B) review such reports and make such recommendations as the Secretary deems appropriate to carry out the purposes of this Act.

##### (3) Failure to report

If a jurisdiction fails to submit a report satisfactory to the Secretary in a timely manner, assistance to the jurisdiction under subchapter II of this chapter or the other programs referred to in section 12706 of this title may be—

(A) suspended until a report satisfactory to the Secretary is submitted; or

(B) withdrawn and reallocated if the Secretary finds, after notice and opportunity for

<sup>1</sup> See References in Text note below.

a hearing, that the jurisdiction will not submit a satisfactory report.

**(b) Performance review by Secretary**

**(1) In general**

The Secretary shall ensure that activities of each jurisdiction required to submit a housing strategy under section 12705 of this title are reviewed not less frequently than annually. Such review shall include, insofar as practicable, on-site visits by employees of the Department of Housing and Urban Development and shall include an assessment of the jurisdiction's—

(A) management of funds made available under programs administered by the Secretary;

(B) compliance with its housing strategy;

(C) accuracy in the preparation of performance reports under subsection (a) of this section; and

(D) efforts to ensure that housing assisted under programs administered by the Secretary are in compliance with contractual agreements and the requirements of law.

**(2) Report by Secretary**

The Secretary shall report on the performance review in writing. The Secretary shall give the jurisdiction not less than 30 days to review and comment on the report. After taking into consideration the comments of the jurisdiction, the Secretary may revise the report and shall make the jurisdiction's comments and the report, with any revisions, readily available to the public within 30 days after receipt of the jurisdiction's comments.

**(c) Review by courts**

The adequacy of information submitted under section 12705(b)(4) of this title shall not be reviewable by any Federal, State, or other court. Review of a housing strategy by any Federal, State, or other court shall be limited to determining whether the process of development and the content of the strategy are in substantial compliance with the requirements of this Act. During the pendency of any action challenging the adequacy of a housing strategy or the action of the Secretary in approving a strategy, the court shall not have the authority to enjoin activities taken by the jurisdiction to implement an approved housing strategy. Any housing assisted during the pendency of such action shall not be subject to any order of the court resulting from such action.

(Pub. L. 101-625, title I, §108, Nov. 28, 1990, 104 Stat. 4092.)

REFERENCES IN TEXT

Section 12705(b)(15) of this title, referred to in subsec. (a)(1), was redesignated section 12705(b)(16) of this title by Pub. L. 102-550, title II, §220(c)(1), Oct. 28, 1992, 106 Stat. 3762, and was subsequently redesignated section 12705(b)(18) of this title by Pub. L. 105-276, title V, §583(4)(A), Oct. 21, 1998, 112 Stat. 2644.

This Act, referred to in subsecs. (a)(2) and (c), is Pub. L. 101-625, Nov. 28, 1990, 104 Stat. 4079, known as the Cranston-Gonzalez National Affordable Housing Act. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

**§ 12709. Energy efficiency standards**

**(a) Establishment**

**(1) In general**

The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, not later than September 30, 2006, jointly establish, by rule, energy efficiency standards for—

(A) new construction of public and assisted housing and single family and multifamily residential housing (other than manufactured homes) subject to mortgages insured under the National Housing Act [12 U.S.C. 1701 et seq.];

(B) new construction of single family housing (other than manufactured homes) subject to mortgages insured, guaranteed, or made by the Secretary of Agriculture under title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.]; and

(C) rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 1437v of this title.

**(2) Contents**

Such standards shall meet or exceed the requirements of the 2006 International Energy Conservation Code (hereafter in this section referred to as “the 2006 IECC”), or, in the case of multifamily high rises, the requirements of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers Standard 90.1-2004 (hereafter in this section referred to as “ASHRAE Standard 90.1-2004”), and shall be cost-effective with respect to construction and operating costs on a life-cycle cost basis. In developing such standards, the Secretaries shall consult with an advisory task force composed of homebuilders, national, State, and local housing agencies (including public housing agencies), energy agencies, building code organizations and agencies, energy efficiency organizations, utility organizations, low-income housing organizations, and other parties designated by the Secretaries.

**(b) International Energy Conservation Code**

If the Secretaries have not, by September 30, 2006, established energy efficiency standards under subsection (a) of this section, all new construction and rehabilitation of housing specified in such subsection shall meet the requirements of the 2006 IECC, or, in the case of multifamily high rises, the requirements of ASHRAE Standard 90.1-2004.

**(c) Revisions of the International Energy Conservation Code**

If the requirements of the 2006 IECC, or, in the case of multifamily high rises, ASHRAE Standard 90.1-2004, are revised at any time, the Secretaries shall, not later than 1 year after such revision, amend the standards established under subsection (a) of this section to meet or exceed the requirements of such revised code or standard unless the Secretaries determine that compliance with such revised code or standard would not result in a significant increase in energy efficiency or would not be technologically feasible or economically justified.

**(d) Failure to amend the standards**

If the Secretary of Housing and Urban Development and the Secretary of Agriculture have not, within 1 year after the requirements of the 2006 IECC or the ASHRAE Standard 90.1-2004 are revised, amended the standards or made a determination under subsection (c), all new construction and rehabilitation of housing specified in subsection (a) shall meet the requirements of the revised code or standard if—

(1) the Secretary of Housing and Urban Development or the Secretary of Agriculture make a determination that the revised codes do not negatively affect the availability or affordability of new construction of assisted housing and single family and multifamily residential housing (other than manufactured homes) subject to mortgages insured under the National Housing Act (12 U.S.C. 1701 et seq.) or insured, guaranteed, or made by the Secretary of Agriculture under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.), respectively; and

(2) the Secretary of Energy has made a determination under section 6833 of this title that the revised code or standard would improve energy efficiency.

(Pub. L. 101-625, title I, § 109, Nov. 28, 1990, 104 Stat. 4093; Pub. L. 102-486, title I, § 101(c)(1), Oct. 24, 1992, 106 Stat. 2786; Pub. L. 109-58, title I, § 153, Aug. 8, 2005, 119 Stat. 649; Pub. L. 110-140, title IV, § 481, Dec. 19, 2007, 121 Stat. 1648.)

**REFERENCES IN TEXT**

The National Housing Act, referred to in subsecs. (a)(1)(A) and (d)(1), is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to chapter 13 (§ 1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

The Housing Act of 1949, referred to in subsecs. (a)(1)(B) and (d)(1), is act July 15, 1949, ch. 338, 63 Stat. 413. Title V of the Act is classified generally to subchapter III (§ 1471 et seq.) of chapter 8A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables.

**AMENDMENTS**

2007—Pub. L. 110-140, § 481(6), substituted “2004” for “1989” wherever appearing in subsecs. (a) to (c).

Subsec. (a)(1)(C). Pub. L. 110-140, § 481(1)(A), struck out “, where such standards are determined to be cost effective by the Secretary of Housing and Urban Development” before period at end.

Subsec. (a)(2). Pub. L. 110-140, § 481(1)(B), (5), in first sentence, substituted “2006 International Energy Conservation Code” for “Council of American Building Officials Model Energy Code, 1992” and “the 2006 IECC” for “CABO Model Energy Code, 1992” and struck out “, and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 1437v of this title, the 2003 International Energy Conservation Code” before “, and shall be”.

Subsec. (b). Pub. L. 110-140, § 481(2), (5), in heading, substituted “International Energy Conservation” for “Model Energy” and, in text, inserted “and rehabilitation” after “all new construction”, substituted “the 2006 IECC” for “CABO Model Energy Code, 1992”, and struck out “, and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 1437v of this title, the 2003 International Energy Conservation Code” before period at end.

Subsec. (c). Pub. L. 110-140, § 481(3), (5), in heading, struck out “Model Energy Code and” after “Revisions of” and, in text, substituted “the 2006 IECC” for “CABO Model Energy Code, 1992”, and struck out “, or, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 1437v of this title, the 2003 International Energy Conservation Code” before “, are revised”.

Subsec. (d). Pub. L. 110-140, § 481(4), added subsec. (d). 2005—Subsec. (a)(1). Pub. L. 109-58, § 153(1)(A)(i), substituted “September 30, 2006” for “1 year after October 24, 1992” in introductory provisions.

Subsec. (a)(1)(C). Pub. L. 109-58, § 153(1)(A)(ii)–(iv), added subpar. (C).

Subsec. (a)(2). Pub. L. 109-58, § 153(1)(B), inserted “, and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 1437v of this title, the 2003 International Energy Conservation Code” after “90.1-1989”.

Subsec. (b). Pub. L. 109-58, § 153(2), substituted “by September 30, 2006” for “within 1 year after October 24, 1992” and inserted “, and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 1437v of this title, the 2003 International Energy Conservation Code” before period at end.

Subsec. (c). Pub. L. 109-58, § 153(3), inserted “and the International Energy Conservation Code” after “Model Energy Code” in heading and “, or, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 1437v of this title, the 2003 International Energy Conservation Code” after “90.1-1989” in text.

1992—Pub. L. 102-486 amended section generally. Prior to amendment, section read as follows: “The Secretary of Housing and Urban Development shall, not later than one year after November 28, 1990, promulgate energy efficiency standards for new construction of public and assisted housing and single-family and multifamily residential housing (other than manufactured homes) subject to mortgages under the National Housing Act. Such standards shall meet or exceed the provisions of the most recent edition of the Model Energy Code of the Council of American Building Officials and shall be cost-effective with respect to construction and operating costs. In developing such standards the Secretary shall consult with an advisory task force composed of homebuilders, national, State, and local housing agencies (including public housing agencies), energy agencies and building code organizations and agencies, energy efficiency organizations, utility organizations, low-income housing organizations, and other parties designated by the Secretary.”

**EFFECTIVE DATE OF 2007 AMENDMENT**

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

**§ 12710. Capacity study****(a) In general**

The Secretary shall ensure that the Department of Housing and Urban Development has adequate capacity and resources, including staff and training programs, to carry out its mission and responsibilities to implement the provisions of this Act, including the ability of the Department to carry out the multifamily mortgage insurance program, and the ability to respond to areas identified as “material weaknesses” by the Office of the Inspector General in financial audits or other reports.

**(b) Report**

Not later than 60 days after November 28, 1990, and annually thereafter, the Secretary shall pre-



pare and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a study detailing the Department's plan to maintain such capacity, together with any recommendations for legislative and administrative action as the Secretary determines to be appropriate.

(Pub. L. 101-625, title I, §110, Nov. 28, 1990, 104 Stat. 4093; Pub. L. 102-550, title IV, §407, Oct. 28, 1992, 106 Stat. 3778.)

#### REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 101-625, Nov. 28, 1990, 104 Stat. 4079, known as the Cranston-Gonzalez National Affordable Housing Act. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

#### AMENDMENTS

1992—Subsec. (a). Pub. L. 102-550 struck out “, and” after “responsibilities” and substituted for period at end “and the ability to respond to areas identified as ‘material weaknesses’ by the Office of the Inspector General in financial audits or other reports.”

#### CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

### § 12711. Protection of State and local authority

Notwithstanding any other provision of this subchapter or subchapter II of this chapter, the Secretary shall not establish any criteria for allocating or denying funds made available under programs administered by the Secretary based on the adoption, continuation, or discontinuation by a jurisdiction of any public policy, regulation, or law that is (1) adopted, continued, or discontinued in accordance with the jurisdiction's duly established authority, and (2) not in violation of any Federal law.

(Pub. L. 101-625, title I, §111, Nov. 28, 1990, 104 Stat. 4093.)

### § 12712. 5-year energy efficiency plan

#### (a) Establishment

The Secretary of Housing and Urban Development shall establish a plan for activities to be undertaken and policies to be adopted by the Secretary within the 5-year period beginning upon the submission of the plan to the Congress under subsection (d) of this section to provide for, encourage, and improve energy efficiency in newly constructed, rehabilitated, and existing housing. In developing the plan, the Secretary shall consider, as appropriate, any energy assessments under section 944.

#### (b) Initial plan

The Secretary of Housing and Urban Development shall establish the first plan under this

section not later than the expiration of the 1-year period beginning on November 28, 1990.

#### (c) Updates

The Secretary of Housing and Urban Development shall revise and update the plan under this section not less than once for each 2-year period, the first such 2-year period beginning on the date of the submission of the initial plan under subsection (b) of this section to the Congress (as provided in subsection (d) of this section). Each such update shall revise the plan for the 5-year period beginning upon the submission of the updated plan to the Congress.

#### (d) Submission to Congress

The Secretary of Housing and Urban Development shall submit the initial plan established under subsection (b) of this section and any updated plans under subsection (c) of this section to the Congress not later than the date by which such plans are to be established or updated under such paragraphs.

(Pub. L. 101-625, title IX, §945, Nov. 28, 1990, 104 Stat. 4416.)

#### REFERENCES IN TEXT

Section 944, referred to in subsec. (a), is section 944 of Pub. L. 101-625, which is set out below.

#### CODIFICATION

Section was enacted as part of title IX of the Cranston-Gonzalez National Affordable Housing Act, and not as part of title I of such Act which comprises this subchapter.

#### ENERGY ASSESSMENT REPORT

Section 944 of Pub. L. 101-625 directed Secretary of Housing and Urban Development to submit a report to Congress, not later than one year after Nov. 28, 1990, assessing any activity undertaken by the Secretary to increase energy efficiency in housing, such report to include an analysis of the Aug. 15, 1990, DOE-HUD program to expand energy efficiency and increase affordability of federally-assisted housing, and provided that in such report Secretary of Housing and Urban Development (in consultation with Secretary of Energy) was to establish, and include a description of, a standard measure by which changes over time in residential energy efficiency could be compared.

#### UNIFORM MORTGAGE FINANCING PLAN FOR ENERGY EFFICIENCY

Section 946 of Pub. L. 101-625, as amended by Pub. L. 102-486, title I, §105(b), Oct. 24, 1992, 106 Stat. 2792; Pub. L. 102-550, title IX, §914(b), Oct. 28, 1992, 106 Stat. 3877, provided that:

“(a) **UNIFORM PLAN.**—The Secretary of Housing and Urban Development, in consultation with the Secretary of Energy, shall promulgate a uniform plan to make housing more affordable through energy efficient mortgages (as such term is defined in section 104 of this Act [42 U.S.C. 12704]). The plan shall be promulgated not later than 2 years after the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act [Nov. 28, 1990].

“(b) **TASK FORCE.**—To develop the plan, the Secretary shall form a task force to make recommendation[s] on financing energy efficiency in private mortgages, through the policies of Federal agencies and federally chartered financial institutions, mortgage bankers, homebuilders, real estate brokers, private mortgage insurers, energy suppliers, and nonprofit housing and energy organizations. The task force shall include, but not be limited to, individuals representing the Federal Housing Administration mortgage programs of the De-

partment of Housing and Urban Development, the Farmers Home Administration mortgage loan and insurance programs of Department of Agriculture, the Federal Home Loan Mortgage Corporation, and the Federal National Mortgage Association. The Task Force shall determine whether notifying potential home purchasers of the availability of energy efficient mortgages would promote energy efficiency in residential buildings, and if so, the Task Force shall recommend appropriate notification guidelines, and agencies and organizations referred to in the preceding sentence are authorized to implement such guidelines.”

#### ENERGY EFFICIENCY DEMONSTRATION

Section 961 of Pub. L. 101-625 directed Secretary of Housing and Urban Development to establish a program to demonstrate various methods of improving the energy efficiency of existing housing, provided for funding, provided that the demonstration determine appropriate design, improvement, and rehabilitation methods and practices for increasing residential energy efficiency in housing already constructed, and directed Secretary, as soon as practicable after Sept. 30, 1991, to submit to Congress a report setting forth the findings and recommendations of the Secretary as a result of the demonstration.

### § 12713. Eligibility under first-time homebuyer programs

#### (a) Eligibility of displaced homemakers and single parents for Federal assistance for first-time homebuyers

##### (1) Displaced homemakers

No individual who is a displaced homemaker may be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse.

##### (2) Single parents

No individual who is a single parent may be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

#### (b) Definitions

For purposes of this section:

##### (1) Displaced homemaker

The term “displaced homemaker” means an individual who—

(A) is an adult;

(B) has not worked full-time, full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and

(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

##### (2) First-time homebuyer

The term “first-time homebuyer” means an individual who has never, or has not during a specified period of time, had any present ownership interest in a principal residence.

##### (3) Single parent

The term “single parent” means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

#### (c) Applicability

This section shall apply to any Federal program to assist first-time homebuyers, unless the program is exempted from this section by a statute that amends this subsection or explicitly refers to this subsection.

(Pub. L. 101-625, title IX, §956, Nov. 28, 1990, 104 Stat. 4421.)

#### CODIFICATION

Section was enacted as part of title IX of the Cranston-Gonzalez National Affordable Housing Act, and not as part of title I of such Act which comprises this subchapter.

### § 12714. Repealed. Pub. L. 104-99, title IV, § 404(a), Jan. 26, 1996, 110 Stat. 44

Section, Pub. L. 101-625, title IX, §957, Nov. 28, 1990, 104 Stat. 4422, related to maximum annual limitation on rent increases resulting from employment.

#### EFFECTIVE DATE OF REPEAL

Section 404(a) of Pub. L. 104-99 provided in part that this section is repealed retroactive to Nov. 28, 1990, and shall be of no effect.

#### ECONOMIC INDEPENDENCE

Pub. L. 102-550, title IX, §923, Oct. 28, 1992, 106 Stat. 3884, which provided that Secretary of Housing and Urban Development was to immediately implement section 12714 of this title and that other Federal agencies authorized to assist low-income families were to take similar steps to encourage economic independence and the accumulation of assets, was repealed retroactive to Oct. 28, 1992, by Pub. L. 104-99, title IV, § 404(b), Jan. 26, 1996, 110 Stat. 44, which further provided that section 923 of Pub. L. 102-550 was to be of no effect.

### SUBCHAPTER II—INVESTMENT IN AFFORDABLE HOUSING

#### § 12721. Findings

The Congress finds that—

(1) the Nation has not made adequate progress toward the goal of national housing policy, as set out in the Housing Act of 1949 [42 U.S.C. 1441 et seq.] and reaffirmed in the Housing and Urban Development Act of 1968, which would provide decent, safe, sanitary, and affordable living environments for all Americans;

(2) the supply of affordable rental housing is diminishing;

(3) the Tax Reform Act of 1986 removed major tax incentives for the production of affordable rental housing;

(4) the living environments of an increasing number of Americans have deteriorated over the past several years as a result of reductions in Federal assistance to low-income and moderate-income families;

(5) many Americans face the possibility of homelessness unless Federal, State, and local governments work together with the private sector to develop and rehabilitate the housing stock of the Nation to provide decent, safe, sanitary, and affordable housing for very low-income and low-income families;

(6) reliable Federal leadership is needed to achieve an adequate supply of affordable housing for all Americans;

(7) to achieve the goal of national housing policy, there is a need to strengthen nationwide a cost-effective community-based housing partnership designed to—

(A) expand the supply of rental housing that is affordable to very low-income and low-income families,

(B) improve homeownership opportunities for low-income families,

(C) carry out comprehensive housing strategies tailored to local housing market conditions, and

(D) protect the Federal, State, and local investment in low-income housing to ensure affordability of the housing for the remaining useful life of the property;

(8) direct assistance to expand the supply of affordable rental housing should be provided in a way that is more cost-effective and targeted than tax incentives;

(9) much of the Nation's housing system works very well and provides a strong base on which national housing policy should build;

(10) an increasing number of States and local governments have been successful in producing cost-effective low-income and moderate-income housing by working in partnership with the private sector, including nonprofit community development corporations, community action agencies, neighborhood housing services corporations, trade unions, groups sponsored by religious organizations, limited equity cooperatives, and other tenant organizations;

(11) during the 1980's, nonprofit community housing development organizations, despite severe obstacles caused by inadequate funding, have played an increasingly important role in the production and rehabilitation of affordable housing in communities across the Nation;

(12) additional financial resources and technical skills must be made available in local communities if the Nation is to mobilize the capacity of the private sector, including nonprofit community housing development organizations, to provide a more adequate supply of decent, safe, and sanitary housing that is affordable to very low-income, low-income, and moderate-income families and meets the need for large family units and other additional units that are available to very low-income families receiving rental assistance payments from Federal, State, and local governments; and

(13) the long-term success of efforts to provide more affordable housing depends upon tenants and homeowners being fiscally responsible and able managers.

(Pub. L. 101-625, title II, §202, Nov. 28, 1990, 104 Stat. 4094.)

#### REFERENCES IN TEXT

The Housing Act of 1949, referred to in par. (1), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended, which is classified principally to chapter 8A (§1441 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables.

The Housing and Urban Development Act of 1968, referred to in par. (1), is Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 476, as amended. For complete classification of this Act to the Code, see Short Title of 1968 Amendments note set out under section 1701 of Title 12, Banks and Banking, and Tables.

The Tax Reform Act of 1986, referred to in par. (3), is Pub. L. 99-514, Oct. 22, 1986, 100 Stat. 2085, as amended. For complete classification of this Act to the Code, see Short Title of 1986 Amendments note set out under section 1 of Title 26, Internal Revenue Code, and Tables.

#### SHORT TITLE

For short title of this subchapter as the "HOME Investment Partnerships Act", see Short Title note set out under section 12701 of this title.

#### § 12722. Purposes

The purposes of this subchapter are—

(1) to expand the supply of decent, safe, sanitary, and affordable housing, with primary attention to rental housing, for very low-income and low-income Americans;

(2) to mobilize and strengthen the abilities of States and units of general local government throughout the United States to design and implement strategies for achieving an adequate supply of decent, safe, sanitary, and affordable housing;

(3) to provide participating jurisdictions, on a coordinated basis, with the various forms of Federal housing assistance, including capital investment, mortgage insurance, rental assistance, and other Federal assistance, needed—

(A) to expand the supply of decent, safe, sanitary, and affordable housing;

(B) to make new construction, rehabilitation, substantial rehabilitation, and acquisition of such housing feasible; and

(C) to promote the development of partnerships among the Federal Government, States and units of general local government, private industry, and nonprofit organizations able to utilize effectively all available resources to provide more of such housing;

(4) to make housing more affordable for very low-income and low-income families through the use of tenant-based rental assistance;

(5) to develop and refine, on an ongoing basis, a selection of model programs incorporating the most effective methods for providing decent, safe, sanitary, and affordable housing, and accelerate the application of such methods where appropriate throughout the United States to achieve the prudent and efficient use of funds made available under this subchapter;

(6) to expand the capacity of nonprofit community housing development organizations to develop and manage decent, safe, sanitary, and affordable housing;

(7) to ensure that Federal investment produces housing stock that is available and affordable to low-income families for the property's remaining useful life, is appropriate to the neighborhood surroundings, and, wherever appropriate, is mixed income housing;

(8) to increase the investment of private capital and the use of private sector resources in the provision of decent, safe, sanitary, and affordable housing;

(9) to allocate Federal funds for investment in affordable housing among participating jurisdictions by formula allocation;

(10) to leverage those funds insofar as practicable with State and local matching contributions and private investment;

(11) to establish for each participating jurisdiction a HOME Investment Trust Fund with a line of credit for investment in affordable housing, with repayments back to its HOME Investment Trust Fund being made available for reinvestment by the jurisdiction;

(12) to provide credit enhancement for affordable housing by utilizing the capacities of existing agencies and mortgage finance institutions when most efficient and supplementing their activities when appropriate; and

(13) to assist very low-income and low-income families to obtain the skills and knowledge necessary to become responsible homeowners and tenants.

(Pub. L. 101-625, title II, § 203, Nov. 28, 1990, 104 Stat. 4095.)

#### **§ 12723. Coordinated Federal support for housing strategies**

The Secretary shall make assistance under this subchapter available to participating jurisdictions, through the Office of the Assistant Secretary for Housing-FHA Commissioner of the Department of Housing and Urban Development, to the maximum extent practicable, in coordination with mortgage insurance, rental assistance, and other housing assistance appropriate to the efficient and timely completion of activities under this subchapter.

(Pub. L. 101-625, title II, § 204, Nov. 28, 1990, 104 Stat. 4096.)

#### **§ 12724. Authorization**

There are authorized to be appropriated to carry out this subchapter \$2,086,000,000 for fiscal year 1993, and \$2,173,612,000 for fiscal year 1994, of which—

(1) not more than \$14,000,000 for fiscal year 1993, and \$25,000,000 for fiscal year 1994, shall be for community housing partnership activities authorized under section 12773 of this title; and

(2) not more than \$11,000,000 for fiscal year 1993, and \$22,000,000 for fiscal year 1994, shall be for activities in support of State and local housing strategies authorized under part C of this subchapter.

(Pub. L. 101-625, title II, § 205, Nov. 28, 1990, 104 Stat. 4096; Pub. L. 102-550, title II, § 201, Oct. 28, 1992, 106 Stat. 3751; Pub. L. 103-120, § 5, Oct. 27, 1993, 107 Stat. 1148.)

#### **AMENDMENTS**

1993—Pub. L. 103-120 substituted “\$25,000,000 for fiscal year 1994” for “\$14,000,000 for fiscal year 1994” in par. (1) and “\$22,000,000 for fiscal year 1994” for “\$11,000,000 for fiscal year 1994” in par. (2).

1992—Pub. L. 102-550 amended section generally. Prior to amendment, section read as follows: “There are authorized to be appropriated to carry out this subchapter \$1,000,000,000 for fiscal year 1991, and \$2,086,000,000 for fiscal year 1992, of which—

“(1) not more than \$14,000,000 for fiscal year 1991, and \$14,000,000 for fiscal year 1992, shall be for com-

munity housing partnership activities authorized under section 12773 of this title; and

“(2) not more than \$11,000,000 for fiscal year 1991, and \$11,000,000 for fiscal year 1992, shall be for activities in support of State and local housing strategies authorized under part C of this subchapter.”

#### **§ 12725. Notice**

The Secretary shall issue regulations to implement the provisions of this subchapter after notice and an opportunity for comment pursuant to section 553 of title 5. Such regulations shall become effective not later than 180 days after November 28, 1990.

(Pub. L. 101-625, title II, § 206, Nov. 28, 1990, 104 Stat. 4096.)

#### **PART A—HOME INVESTMENT PARTNERSHIPS**

#### **§ 12741. Authority**

The Secretary is authorized to make funds available to participating jurisdictions for investment to increase the number of families served with decent, safe, sanitary, and affordable housing and expand the long-term supply of affordable housing in accordance with provisions of this part.

(Pub. L. 101-625, title II, § 211, Nov. 28, 1990, 104 Stat. 4096.)

#### **§ 12742. Eligible uses of investment**

##### **(a) Housing uses**

##### **(1) In general**

Funds made available under this part may be used by participating jurisdictions to provide incentives to develop and support affordable rental housing and homeownership affordability through the acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, including real property acquisition, site improvement, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations, to provide for the payment of reasonable administrative and planning costs, to provide for the payment of operating expenses of community housing development organizations, and to provide tenant-based rental assistance. For the purpose of this part, the term “affordable housing” includes permanent housing for disabled homeless persons, transitional housing, and single room occupancy housing.

##### **(2) Preference to rehabilitation**

A participating jurisdiction shall give preference to rehabilitation of substandard housing unless the jurisdiction determines that—

(A) such rehabilitation is not the most cost effective way to meet the jurisdiction’s need to expand the supply of affordable housing; and

(B) the jurisdiction’s housing needs cannot be met through rehabilitation of the available stock.

The Secretary shall not restrict a participating jurisdiction’s choice of rehabilitation, substantial rehabilitation, new construction, re-

construction, acquisition, or other eligible housing use unless such restriction is explicitly authorized under section 12753(2) of this title.

### **(3) Tenant-based rental assistance**

#### **(A) In general**

A participating jurisdiction may use funds provided under this part for tenant-based rental assistance only if—

(i) the jurisdiction certifies that the use of funds under this part for tenant-based rental assistance is an essential element of the jurisdiction's annual housing strategy for expanding the supply, affordability, and availability of decent, safe, sanitary, and affordable housing, and specifies the local market conditions that lead to the choice of this option; and

(ii) the tenant-based rental assistance is provided in accordance with written tenant selection policies and criteria that are consistent with the purposes of providing housing to very low- and low-income families and are reasonably related to preference rules established under section 1437d(c)(4)(A)<sup>1</sup> of this title.

#### **(B) Fair share not affected**

A jurisdiction's section 8 [42 U.S.C. 1437f] fair share allocation shall be unaffected by the use of assistance under this subchapter.

#### **(C) 24-month contracts**

Rental assistance contracts made available with assistance under this subchapter shall be for not more than 24 months, except that assistance to a family may be renewed.

#### **(D) Use of section 1437f assistance**

In any case where assistance under section 1437f of this title becomes available to a participating jurisdiction, recipients of rental assistance under this subchapter shall qualify for tenant selection preferences to the same extent as when they received the rental assistance under this subchapter. A rental assistance program under this subchapter shall meet minimum criteria prescribed by the Secretary, such as housing quality standards and standards regarding the reasonableness of the rent.

#### **(E) Security deposit assistance**

A jurisdiction using funds provided under this part for tenant-based rental assistance may use such funds to provide loans or grants to very low- and low-income families for security deposits for rental of dwelling units. Assistance under this subparagraph does not preclude assistance under any other provision of this paragraph.

### **(4) Redesignated (3)**

#### **(5) Lead-based paint hazards**

A participating jurisdiction may use funds provided under this part for the evaluation and reduction of lead-based paint hazards, as defined in section 4851b of this title.

### **(b) Investments**

Participating jurisdictions shall have discretion to invest funds made available under this

part as equity investments, interest-bearing loans or advances, noninterest-bearing loans or advances, interest subsidies or other forms of assistance that the Secretary has determined to be consistent with the purposes of this subchapter. Each participating jurisdiction shall have the right to establish the terms of assistance.

#### **(c) Administrative costs**

In each fiscal year, each participating jurisdiction may use not more than 10 percent of the funds made available under this part to the jurisdiction for such year for any administrative and planning costs of the jurisdiction in carrying out this part, including the costs of the salaries of persons engaged in administering and managing activities assisted with funds made available under this part.

#### **(d) Prohibited uses**

Funds made available under this part may not be used to—

(1) defray any administrative cost of a participating jurisdiction that exceed the amount specified under subsection (c) of this section,

(2) provide tenant-based rental assistance for the special purposes of the existing section 8 [42 U.S.C. 1437f] program, including replacing public housing that is demolished or disposed of, preserving federally assisted housing, assisting in the disposition of housing owned or held by the Secretary, preventing displacement from rental rehabilitation projects, or extending or renewing tenant-based assistance under section 1437f of this title,

(3) provide non-Federal matching contributions required under any other Federal program,

(4) provide assistance authorized under section 1437g of this title,

(5) carry out activities authorized under section 1437g(d)(1)<sup>1</sup> of this title, or

(6) provide assistance to eligible low-income housing under the Emergency Low Income Housing Preservation Act of 1987 or the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4101 et seq.].

#### **(e) Cost limits**

##### **(1) In general**

The Secretary shall establish limits on the amount of funds under this part that may be invested on a per unit basis. For multifamily housing, such limits shall not be less than the per unit dollar amount limitations set forth in section 1715(d)(3)(ii) of title 12, as such limitations may be adjusted in accordance therewith, except that for purposes of this subsection the Secretary shall, by regulation, increase the per unit dollar amount limitations in any geographical area by an amount, not to exceed 140 percent, that equals the amount by which the costs of multifamily housing construction in the area exceed the national average of such costs. The limits shall be established on a market-by-market basis, with adjustments made for number of bedrooms, and shall reflect the actual cost of new construction, reconstruction, or rehabilitation of housing that meets applicable State and local

<sup>1</sup> See References in Text note below.

housing and building codes and the cost of land, including necessary site improvements. Adjustments shall be made annually to reflect inflation. Separate limits may be set for different eligible activities.

### (2) Criteria

In calculating per unit limits, the Secretary shall take into account that assistance under this subchapter is intended to—

- (A) provide nonluxury housing with suitable amenities;
- (B) operate effectively in all jurisdictions;
- (C) facilitate mixed-income housing; and
- (D) reflect the costs associated with meeting the special needs of tenants or homeowners that the housing is designed to serve.

### (3) Consultation

In calculating cost limits, the Secretary shall consult with organizations that have expertise in the development of affordable housing, including national nonprofit organizations and national organizations representing private development firms and State and local governments.

### (f) Certification of compliance

The requirements of section 3545(d) of this title shall be satisfied by a certification by a participating jurisdiction to the Secretary that the combination of Federal assistance provided to any housing project shall not be any more than is necessary to provide affordable housing.

### (g) Limitation on operating assistance

A participating jurisdiction may not use more than 5 percent of its allocation under this part for the payment of operating expenses for community housing development organizations.

(Pub. L. 101-625, title II, § 212, Nov. 28, 1990, 104 Stat. 4097; Pub. L. 102-550, title II, §§ 203(a), 204-207(b), (d), title X, § 1012(e), Oct. 28, 1992, 106 Stat. 3752-3754, 3905; Pub. L. 105-276, title V, § 522(b)(5), Oct. 21, 1998, 112 Stat. 2565.)

#### REFERENCES IN TEXT

Section 1437d(c)(4)(A) of this title, referred to in subsec. (a)(3)(A)(ii), was in the original “section 6(c)(4)(A) of the Housing Act of 1937”, and was translated as reading “section 6(c)(4)(A) of the United States Housing Act of 1937”, act Sept. 1, 1937, ch. 896, to reflect the probable intent of Congress. Section 1437d(c)(4)(A) of this title was redesignated section 1437d(c)(5)(A) of this title by Pub. L. 109-162, title VI, § 607(1), Jan. 5, 2006, 119 Stat. 3048.

Section 1437g(d)(1) of this title, referred to in subsec. (d)(5), was in the original “section 9(d)(1) of the Housing Act of 1937”, and was translated as reading “section 9(d)(1) of the United States Housing Act of 1937”, act Sept. 1, 1937, ch. 896, to reflect the probable intent of Congress.

The Emergency Low Income Housing Preservation Act of 1987, referred to in subsec. (d)(6), is title II of Pub. L. 100-242, Feb. 5, 1988, 102 Stat. 1877, as amended, which was classified principally as a note under section 1715f of Title 12, Banks and Banking. Title II of Pub. L. 100-242, was amended generally by Pub. L. 101-625, title VI, § 601(a), Nov. 28, 1990, 104 Stat. 4249, and is now known as the Low-Income Housing Preservation and Resident Homeownership Act of 1990, which is classified principally to chapter 42 (§ 4101 et seq.) of Title 12. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 12 and Tables.

#### AMENDMENTS

1998—Subsec. (d)(5). Pub. L. 105-276 substituted “section 1437g(d)(1)” for “section 1437f”.

1992—Subsec. (a)(1). Pub. L. 102-550, § 207(a), inserted “to provide for the payment of reasonable administrative and planning costs, to provide for the payment of operating expenses of community housing development organizations,” after “or organizations,”.

Pub. L. 102-550, § 205, inserted at end “For the purpose of this part, the term ‘affordable housing’ includes permanent housing for disabled homeless persons, transitional housing, and single room occupancy housing.”

Subsec. (a)(2). Pub. L. 102-550, § 203(a)(1), struck out “under paragraph (3) of this subsection or” after “authorized” in concluding provisions.

Subsec. (a)(3). Pub. L. 102-550, § 204(b), added cl. (ii) of par. (3)(A) and struck out former cl. (ii) which read as follows: “the tenant-based rental assistance is provided to persons from the waiting lists eligible for section 8 assistance in accordance with the applicable preferences.”

Pub. L. 102-550, § 204(a), added subpar. (E).

Pub. L. 102-550, § 203(a)(2), (3), redesignated par. (4) as (3) and struck out former par. (3) which provided for conditions for new construction of housing.

Subsec. (a)(4). Pub. L. 102-550, § 203(a)(3), redesignated par. (4) as (3).

Subsec. (a)(5). Pub. L. 102-550, § 1012(e), added par. (5).

Subsec. (c). Pub. L. 102-550, § 207(b)(3), added subsec. (c). Former subsec. (c) redesignated (d).

Pub. L. 102-550, § 207(b)(1), inserted before comma at end of par. (1) “that exceed the amount specified under subsection (c) of this section”.

Subsec. (d). Pub. L. 102-550, § 207(b)(2), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Pub. L. 102-550, § 206, inserted after first sentence of par. (1) “For multifamily housing, such limits shall not be less than the per unit dollar amount limitations set forth in section 1715f(d)(3)(ii) of title 12, as such limitations may be adjusted in accordance therewith, except that for purposes of this subsection the Secretary shall, by regulation, increase the per unit dollar amount limitations in any geographical area by an amount, not to exceed 140 percent, that equals the amount by which the costs of multifamily housing construction in the area exceed the national average of such costs.”

Subsecs. (e), (f). Pub. L. 102-550, § 207(b)(2), redesignated subsecs. (d) and (e) as (e) and (f), respectively.

Subsec. (g). Pub. L. 102-550, § 207(d), added subsec. (g).

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105-276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105-276, set out as a note under section 1437 of this title.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by sections 203-207 of Pub. L. 102-550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102-550, set out as a note under section 12704 of this title.

## § 12743. Development of model programs

### (a) In general

The Secretary shall—

- (1) in cooperation with participating jurisdictions, government-sponsored mortgage finance corporations, nonprofit organizations, the private sector, and other appropriate parties, develop, test, evaluate, refine, and, as necessary, replace a selection of model programs designed to carry out the purposes of this subchapter;

(2) make available to participating jurisdictions alternative model programs, which shall include suggested guidelines, procedures, forms, legal documents and such other elements as the Secretary determines to be appropriate;

(3) assure, insofar as is feasible, the availability of an appropriate variety of model programs designed for local market conditions, housing problems, project characteristics, and managerial capacities as they differ among participating jurisdictions;

(4) negotiate and enter into agreements with agencies of the Federal Government, participating jurisdictions, private financial institutions, government-sponsored mortgage finance corporations, nonprofit organizations, and other entities to provide such services, products, or financing as may be required for the implementation of a model program;

(5) provide detailed information on model programs as requested by participating jurisdictions, private financial institutions, developers, nonprofit organizations, and other interested parties; and

(6) encourage the use of such model programs to achieve efficiency, economies of scale, and effectiveness in the investment of funds made available under this part through third-party training, printed materials, and such other means of support as the Secretary determines will achieve the purpose of this subchapter.

#### (b) Adoption of programs

Except as provided in section 12753(2) of this title, each participating jurisdiction shall have the discretion to adopt one or more model programs, adapt one or more model programs to its own requirements, design additional forms of assistance by itself or in cooperation with other participating jurisdictions, and suggest additional model programs for adoption by the Secretary as the participating jurisdiction may deem appropriate, and the Secretary may assist a participating jurisdiction in adopting, adapting, or designing one or more model programs.

#### (c) Part D programs

The selection of model programs to be made available for adoption or adaptation shall include programs meeting the criteria set forth in part D of this subchapter.

(Pub. L. 101-625, title II, §213, Nov. 28, 1990, 104 Stat. 4100.)

### § 12744. Income targeting

Each participating jurisdiction shall invest funds made available under this part within each fiscal year so that—

(1) with respect to rental assistance and rental units—

(A) not less than 90 percent of (i) the families receiving such rental assistance are families whose incomes do not exceed 60 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, (except that the Secretary may establish income ceilings higher or lower than 60 percent of the median for the area on the basis

of the Secretary's findings that such variations are necessary because of prevailing levels of construction cost or fair market rent, or unusually high or low family income) at the time of occupancy or at the time funds are invested, whichever is later, or (ii) the dwelling units assisted with such funds are occupied by families having such incomes; and

(B) the remainder of (i) the families receiving such rental assistance are households that qualify as low-income families (other than families described in subparagraph (A)) at the time of occupancy or at the time funds are invested, whichever is later, or (ii) the dwelling units assisted with such funds are occupied by such households;

(2) with respect to homeownership assistance, 100 percent of such funds are invested with respect to dwelling units that are occupied by households that qualify as low-income families; and

(3) all such funds are invested with respect to housing that qualifies as affordable housing under section 12745 of this title.

(Pub. L. 101-625, title II, §214, Nov. 28, 1990, 104 Stat. 4101; Pub. L. 103-233, title II, §202, Apr. 11, 1994, 108 Stat. 364; Pub. L. 105-276, title V, §599B(a), Oct. 21, 1998, 112 Stat. 2660.)

#### AMENDMENTS

1998—Par. (2). Pub. L. 105-276 struck out “at the time of occupancy or at the time funds are invested, whichever is later” before “; and”.

1994—Par. (1)(A). Pub. L. 103-233, §202(1), substituted “(i) the families receiving such rental assistance are” for “such funds are invested with respect to dwelling units that are occupied by”, “, or” for “, and” before cl. (ii), and added cl. (ii).

Par. (1)(B). Pub. L. 103-233, §202(2), substituted “(i) the families receiving such rental assistance are” for “such funds are invested with respect to dwelling units that are occupied by” and added cl. (ii).

#### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-276, title V, §599B(c), Oct. 21, 1998, 112 Stat. 2660, provided that: “The amendments made by this section [amending this section and section 12745 of this title] are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].”

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-233 applicable with respect to any amounts made available to carry out this subchapter after Apr. 11, 1994, and any amounts made available to carry out this subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out such amendment not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103-233, set out as a note under section 5301 of this title.

### § 12745. Qualification as affordable housing

#### (a) Rental housing

##### (1) Qualification

Housing that is for rental shall qualify as affordable housing under this subchapter only if the housing—

(A) bears rents not greater than the lesser of (i) the existing fair market rent for comparable units in the area as established by the Secretary under section 1437f of this

title, or (ii) a rent that does not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for number of bedrooms in the unit, except that the Secretary may establish income ceilings higher or lower than 65 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes;

(B) has not less than 20 percent of the units (i) occupied by very low-income families who pay as a contribution toward rent (excluding any Federal or State rental subsidy provided on behalf of the family) not more than 30 percent of the family's monthly adjusted income as determined by the Secretary, or (ii) occupied by very low-income families and bearing rents not greater than the gross rent for rent-restricted residential units as determined under section 42(g)(2) of title 26;

(C) is occupied only by households that qualify as low-income families;

(D) is not refused for leasing to a holder of a voucher or certificate of eligibility under section 1437f of this title because of the status of the prospective tenant as a holder of such voucher or certificate of eligibility;

(E) will remain affordable, according to binding commitments satisfactory to the Secretary, for the remaining useful life of the property, as determined by the Secretary, without regard to the term of the mortgage or to transfer of ownership, or for such other period that the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this Act, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if such action (i) recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability in the case of foreclosure or transfer in lieu of foreclosure, and (ii) is not for the purpose of avoiding low income affordability restrictions, as determined by the Secretary; and

(F) if newly constructed, meets the energy efficiency standards promulgated by the Secretary in accordance with section 12709 of this title.

## **(2) Adjustment of qualifying rent**

The Secretary may adjust the qualifying rent established for a project under subparagraph (A) of paragraph (1), only if the Secretary finds that such adjustment is necessary to support the continued financial viability of the project and only by such amount as the Secretary determines is necessary to maintain continued financial viability of the project.

## **(3) Increases in tenant income**

Housing shall qualify as affordable housing despite a temporary noncompliance with subparagraph (B) or (C) of paragraph (1) if such noncompliance is caused by increases in the

incomes of existing tenants and if actions satisfactory to the Secretary are being taken to ensure that all vacancies are filled in accordance with paragraph (1) until such noncompliance is corrected. Tenants who no longer qualify as low-income families shall pay as rent the lesser of the amount payable by the tenant under State or local law or 30 percent of the family's adjusted monthly income, as recertified annually. The preceding sentence shall not apply with respect to funds made available under this Act for units that have been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of title 26.

## **(4) Mixed-income project**

Housing that accounts for less than 100 percent of the dwelling units in a project shall qualify as affordable housing if such housing meets the criteria of this section.

## **(5) Mixed-use project**

Housing in a project that is designed in part for uses other than residential use shall qualify as affordable housing if such housing meets the criteria of this section.

## **(6) Waiver of qualifying rent**

### **(A) In general**

For the purpose of providing affordable housing appropriate for families described in subparagraph (B), the Secretary may, upon the application of the project owner, waive the applicability of subparagraph (A) of paragraph (1) with respect to a dwelling unit if—

(i) the unit is occupied by such a family, on whose behalf tenant-based assistance is provided under section 1437f of this title;

(ii) the rent for the unit is not greater than the existing fair market rent for comparable units in the area, as established by the Secretary under section 1437f of this title; and

(iii) the Secretary determines that the waiver, together with waivers under this paragraph for other dwelling units in the project, will result in the use of amounts described in clause (iii)<sup>1</sup> in an effective manner that will improve the provision of affordable housing for such families.

### **(B) Eligible families**

A family described in this subparagraph is a family that consists of at least one elderly person (who is the head of household) and one or more of such person's grand<sup>2</sup> children, great grandchildren, great nieces, great nephews, or great great grandchildren (as defined by the Secretary), but does not include any parent of such grandchildren, great grandchildren, great nieces, great nephews, or great great grandchildren. Such term includes any such grandchildren, great grandchildren, great nieces, great nephews, or great great grandchildren who have been legally adopted by such elderly person.

<sup>1</sup> So in original.

<sup>2</sup> So in original. Probably should be "grandchildren".



**(b) Homeownership**

Housing that is for homeownership shall qualify as affordable housing under this subchapter only if the housing—

(1) has an initial purchase price that does not exceed 95 percent of the median purchase price for the area, as determined by the Secretary with such adjustments for differences in structure, including whether the housing is single-family or multifamily, and for new and old housing as the Secretary determines to be appropriate;

(2) is the principal residence of an owner whose family qualifies as a low-income family—

(A) in the case of a contract to purchase existing housing, at the time of purchase;

(B) in the case of a lease-purchase agreement for existing housing or for housing to be constructed, at the time the agreement is signed; or

(C) in the case of a contract to purchase housing to be constructed, at the time the contract is signed;

(3) is subject to resale restrictions that are established by the participating jurisdiction and determined by the Secretary to be appropriate to—

(A) allow for subsequent purchase of the property only by persons who meet the qualifications specified under paragraph (2), at a price which will—

(i) provide the owner with a fair return on investment, including any improvements, and

(ii) ensure that the housing will remain affordable to a reasonable range of low-income homebuyers; or

(B) recapture the investment provided under this subchapter in order to assist other persons in accordance with the requirements of this subchapter, except where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of the assistance; and

(4) if newly constructed, meets the energy efficiency standards promulgated by the Secretary in accordance with section 12709 of this title.

(Pub. L. 101-625, title II, §215, Nov. 28, 1990, 104 Stat. 4101; Pub. L. 102-550, title II, §§208, 209, Oct. 28, 1992, 106 Stat. 3754; Pub. L. 103-233, title II, §203, Apr. 11, 1994, 108 Stat. 364; Pub. L. 105-276, title V, §599B(b), Oct. 21, 1998, 112 Stat. 2660; Pub. L. 106-569, title IX, §904, Dec. 27, 2000, 114 Stat. 3027.)

**REFERENCES IN TEXT**

This Act, referred to in subsec. (a)(1)(E), (3), is Pub. L. 101-625, Nov. 28, 1990, 104 Stat. 4079, known as the Cranston-Gonzalez National Affordable Housing Act. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

**AMENDMENTS**

2000—Subsec. (a)(6). Pub. L. 106-569 added par. (6).

1998—Subsec. (b)(2). Pub. L. 105-276 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “is the principal residence of an owner whose family

qualifies as a low-income family at the time of purchase;”.

1994—Subsec. (b)(3). Pub. L. 103-233, §203(a), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: “is made available for initial purchase only to first-time homebuyers;”.

Subsec. (b)(3)(B). Pub. L. 103-233, §203(b), substituted “subchapter” for “subsection” after “requirements of this”.

Subsec. (b)(4), (5). Pub. L. 103-233, §203(a)(2), redesignated pars. (4) and (5) as (3) and (4), respectively.

1992—Subsec. (a)(1)(A). Pub. L. 102-550, §208(a)(1), substituted “number of bedrooms in the unit” for “smaller and larger families”.

Subsec. (a)(1)(E). Pub. L. 102-550, §208(b), inserted before semicolon “, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if such action (i) recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability in the case of foreclosure or transfer in lieu of foreclosure, and (ii) is not for the purpose of avoiding low income affordability restrictions, as determined by the Secretary”.

Subsec. (a)(3). Pub. L. 102-550, §208(a)(2), (3), substituted “the lesser of the amount payable by the tenant under State or local law or” for “not less than” in second sentence and inserted at end “The preceding sentence shall not apply with respect to funds made available under this Act for units that have been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of title 26.”

Subsec. (b)(4). Pub. L. 102-550, §209, added par. (4) and struck out former par. (4) which read as follows: “is made available for subsequent purchase only—

“(A) to persons who meet the qualifications specified under paragraph (2), and

“(B) at a price consistent with guidelines that are established by the participating jurisdiction and determined by the Secretary to be appropriate—

“(i) to provide the owner with a fair return on investment, including any improvements, and

“(ii) to ensure that the housing will remain affordable to a reasonable range of low income homebuyers; and”.

**EFFECTIVE DATE OF 1998 AMENDMENT**

Amendment by Pub. L. 105-276 made on, and applicable beginning upon, Oct. 21, 1998, see section 599B(c) of Pub. L. 105-276, set out as a note under section 12744 of this title.

**EFFECTIVE DATE OF 1994 AMENDMENT**

Amendment by Pub. L. 103-233 applicable with respect to any amounts made available to carry out this subchapter after Apr. 11, 1994, and any amounts made available to carry out this subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out such amendment not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103-233, set out as a note under section 5301 of this title.

**EFFECTIVE DATE OF 1992 AMENDMENT**

Amendment by Pub. L. 102-550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102-550, set out as a note under section 12704 of this title.

**§ 12746. Participation by States and local governments**

The Secretary shall designate a State or unit of general local government to be a participating jurisdiction when it complies with procedures that the Secretary shall establish by regulation, which procedures shall only provide for the following:

**(1) Allocation**

Not later than 20 days after funds to carry out this part become available (or, during the first year after November 28, 1990, not later than 20 days after (A) funds to carry out this part are provided in an appropriations Act, or (B) regulations to implement this part are promulgated, whichever is later), the Secretary shall allocate funds in accordance with section 12747 of this title and promptly notify each jurisdiction receiving a formula allocation of its allocation amount. If a jurisdiction is not already a participating jurisdiction, the Secretary shall inform the jurisdiction in writing how the jurisdiction may become a participating jurisdiction.

**(2) Consortia**

A consortium of geographically contiguous units of general local government shall be deemed to be a unit of general local government for purposes of this subchapter if the Secretary determines that the consortium—

(A) has sufficient authority and administrative capability to carry out the purposes of this subchapter on behalf of its member jurisdictions, and

(B) will, according to a written certification by the State (or States, if the consortium includes jurisdictions in more than one State), direct its activities to alleviation of housing problems within the State or States.

**(3) Eligibility**

(A) Except as provided in paragraph (10), a jurisdiction receiving a formula allocation under section 12747 of this title shall be eligible to become a participating jurisdiction if its formula allocation is \$750,000 or greater, or if the Secretary finds that—

(i) the jurisdiction has a local housing authority and has demonstrated a capacity to carry out provisions of this part, and

(ii) the State has authorized the Secretary to transfer to the jurisdiction a portion of the State's allocation that is equal to or greater than the difference between the jurisdiction's formula allocation and \$750,000, or the State or jurisdiction has made available from the State's or jurisdiction's own sources an equal amount for use by the jurisdiction in conformance with the provisions of this part.

(B) If a jurisdiction has met the requirements of subparagraph (A), the jurisdiction's formula allocation for a fiscal year shall subsequently be deemed to equal the sum of the jurisdiction's allocation under section 12747(a)(1) of this title and the amount made available to the jurisdiction under subparagraph (A)(ii).

**(4) Notification**

If an eligible jurisdiction notifies the Secretary in writing, not later than 30 days after receiving notification under paragraph (1), of its intention to become a participating jurisdiction, the Secretary shall reserve an amount equal to the jurisdiction's allocation (plus any reallocations for which the jurisdiction is eligible under section 12747(d)(1) of this title)

pending the jurisdiction's designation as a participating jurisdiction. The Secretary shall reallocate, in accordance with paragraph (6) of this section, any funds reserved under the previous sentence if the Secretary determines that the jurisdiction will not meet the requirements for designation as a participating jurisdiction within a reasonable period of time.

**(5) Submission of strategy**

Not later than 90 days after providing notification under paragraph (4), an eligible jurisdiction shall submit to the Secretary a comprehensive housing affordability strategy in accordance with section 12705 of this title.

**(6) Reallocation**

If the Secretary determines that a jurisdiction has failed to meet the requirements of the previous 3 paragraphs or if the Secretary, after providing for amendments and resubmissions in accordance with section 12705(c)(3) of this title, disapproves the jurisdiction's comprehensive housing affordability strategy, the Secretary shall reallocate any funds reserved for the jurisdiction as follows:

**(A) State**

If a State has failed to meet the requirements, the Secretary shall—

(i) make any funds reserved for the State available by direct reallocation among applications submitted by units of general local government within the State or consortia that include units of general local government within the State, insofar as approvable applications meeting the selection criteria under section 12747(c) of this title are received within 12 months after the funds become available for the direct reallocation, and

(ii) reallocate the remainder by formula in accordance with section 12747(b) of this title.

**(B) Local**

If a unit of general local government has failed to meet the requirements and is located in a State that is a participating jurisdiction, the Secretary shall reallocate to the State any funds reserved for the locality, with preference going to the provision of affordable housing within the locality.

**(C) Direct reallocation**

If a unit of general local government has failed to meet the requirements and is located in a State that is not a participating jurisdiction, the Secretary shall—

(i) make any funds reserved for the locality available for use within the State by direct reallocation among units of general local government and community housing development organizations, insofar as approvable applications meeting the selection criteria under section 12747(c) of this title are received within 12 months after the funds become available for the direct reallocation with priority going to applications for affordable housing within the locality, and

(ii) reallocate the remainder in accordance with section 12747(b) of this title.

**(D) Certain jurisdictions deemed to be participating jurisdictions**

If a State or unit of general local government is meeting the requirements of paragraphs (3), (4), and (5), it shall be deemed to be a participating jurisdiction for purposes of reallocation under this paragraph.

**(7) Designation**

The Secretary shall designate an eligible jurisdiction to be a participating jurisdiction as soon as its comprehensive housing affordability strategy is approved in accordance with section 12705 of this title.

**(8) Continuous designation**

Once a State or unit of general local government is designated a participating jurisdiction, it shall remain a participating jurisdiction for subsequent fiscal years, except as provided in paragraph (9). The provisions of paragraphs (3) through (6) shall not apply to participating jurisdictions.

**(9) Revocation**

The Secretary may revoke a jurisdiction's designation as a participating jurisdiction if—

(A) the Secretary finds, after reasonable notice and opportunity for hearing, that the jurisdiction is unwilling or unable to carry out the provisions of this subchapter, or

(B) the jurisdiction's allocation falls below \$750,000 for 3 consecutive years, below \$625,000 for 2 consecutive years, or the jurisdiction does not receive a formula allocation of \$500,000 or more in any 1 year, except as provided in paragraph (10).

If a jurisdiction's designation as a participating jurisdiction is revoked, any remaining line of credit in the jurisdiction's HOME Investment Trust Fund established under section 12748 of this title shall be reallocated in accordance with paragraph (6) of this section.

**(10) Threshold reduction**

If the amount appropriated pursuant to section 12724 of this title for any fiscal year is less than \$1,500,000,000, then this section shall be applied during that year—

(A) by substituting “\$500,000” for “\$750,000” both places it appears in paragraph (3); and

(B) by substituting “\$500,000”, “\$410,000”, and “\$335,000” for “\$750,000”, “\$625,000”, and “\$500,000”, respectively, where they appear in paragraph (9).

(Pub. L. 101-625, title II, §216, Nov. 28, 1990, 104 Stat. 4103; Pub. L. 102-550, title II, §202(a), Oct. 28, 1992, 106 Stat. 3751.)

AMENDMENTS

1992—Par. (3)(A). Pub. L. 102-550, §202(a)(1), substituted “Except as provided in paragraph (10), a jurisdiction” for “A jurisdiction”.

Par. (9)(B). Pub. L. 102-550, §202(a)(2), inserted “, except as provided in paragraph (10)” after “in any 1 year”.

Par. (10). Pub. L. 102-550, §202(a)(3), added par. (10).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-550 applicable to unexpended funds allocated under subchapter II of this

chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102-550, set out as a note under section 12704 of this title.

APPLICABILITY OF GRANT THRESHOLDS

Section 202(c) of Pub. L. 102-550 provided that: “Notwithstanding any other provision of law, the grant thresholds provided for in section 216 [42 U.S.C. 12746], as amended by this section, and the grant thresholds provided for in section 217(b) of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12747(b)], as amended by this section, shall apply.”

**§ 12747. Allocation of resources**

**(a) In general**

**(1) States and units of general local government**

After reserving amounts under paragraph (3) for the insular areas, the Secretary shall allocate funds approved in an appropriation Act to carry out this subchapter by formula as provided in subsection (b) of this section. Of the funds made available under the preceding sentence, the Secretary shall initially allocate 60 percent among units of general local government and 40 percent among States.

**(2) Repealed.** Pub. L. 104-330, title V, §505(a)(1)(B), Oct. 26, 1996, 110 Stat. 4044

**(3)<sup>1</sup> Insular areas**

For each fiscal year, of any amounts approved in appropriation Acts to carry out this subchapter, the Secretary shall reserve for grants to the insular areas the greater of (A) \$750,000, or (B) 0.2 percent of the amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution, which shall be contained in a regulation issued by the Secretary.

**(b) Formula allocation**

**(1) In general**

**(A) Basic formula**

The Secretary shall establish in<sup>2</sup> regulation an allocation formula that reflects each jurisdiction's share of total need among eligible jurisdiction<sup>3</sup> for an increased supply of affordable housing for very low-income and low-income families of different size, as identified by objective measures of inadequate housing supply, substandard housing, the number of low-income families in housing likely to be in need of rehabilitation, the costs of producing housing, poverty, and the relative fiscal incapacity of the jurisdiction to carry out housing activities eligible under section 12742 of this title without Federal assistance. Allocation among units of general local government shall take into account the housing needs of metropolitan cities, urban counties, and approved consortia of units of general local government.

**(B) Source of data**

The data to be used for formula allocation of funds within a fiscal year shall be data ob-

<sup>1</sup> See 1992 Amendment note below.

<sup>2</sup> So in original. Probably should be “by”.

<sup>3</sup> So in original. Probably should be “jurisdictions”.

tained from a standard source that are available to the Secretary 90 days prior to the beginning of that fiscal year.

**(C) Use of basic formula**

The basic formula established under subparagraph (A) shall be used for all formula allocations and reallocations provided for in this part.

**(D) Weights**

When allocation is made among States, the Secretary shall apply the formula in subparagraph (A) giving 20 percent weight to measures of need for the whole State and 80 percent weight to measures of need among units of general local government that are not receiving an allocation under section 12746(1) of this title.

**(E) Adjustments**

In developing the basic formula in subparagraph (A), the Secretary shall (i) avoid the allocation of an excessively large share of amounts made available under this part to any one State or unit of general local government, and (ii) take into account the need for a geographic distribution of amounts made available under this part that appropriately reflects the housing need in each region of the Nation.

**(F) Consultation**

The Secretary shall develop the formula in subparagraph (A) in ongoing consultation with (i) the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate, (ii) the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and (iii) organizations representing States and units of general local government. Not less than 60 days prior to publishing a formula for comment, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a copy of the formula the Secretary intends to propose.

**(2) Minimum State allocation**

**(A) In general**

If the formula, when applied to funds approved under this section in appropriations Acts for a fiscal year, would allocate less than \$3,000,000 to any State, the allocation for such State shall be \$3,000,000, and the increase shall be deducted pro rata from the allocations of other States.

**(B) Increased minimum allocation**

If no unit of general local government within a State receives an allocation under paragraph (3), the State's allocation shall be increased by \$500,000. Priority for use of such increased allocation shall go to the provision of affordable housing within the boundaries of metropolitan cities, urban counties, and approved consortia within the State, based on the need for such funds. The increased allocation to a State under the pre-

ceding sentence shall be derived by a pro rata deduction from the allocations to units of general local government in all States, except that such pro rata deduction shall not reduce the allocation of any unit of general local government below \$500,000.

**(3) Minimum local allocation**

The Secretary shall allocate funds available for formula allocation to units of general local government that, as of the end of the previous fiscal year, qualified as metropolitan cities, urban counties, and consortia approved by the Secretary in accordance with section 12746(2) of this title so that, when all such funds are initially allocated by formula, jurisdictions that are allocated an amount of \$500,000 or more, and participating jurisdictions (other than consortia that fail to renew the membership of all of their member jurisdictions) that are allocated an amount less than \$500,000, shall receive an allocation. Prior to announcing initial allocations, the Secretary shall successively recalculate the allocations to jurisdictions under this subsection so that the maximum number of such jurisdictions can receive initial allocations, except as provided in paragraph (4).

**(4) Threshold reduction**

If the amount appropriated pursuant to section 12724 of this title for any fiscal year is less than \$1,500,000,000, then this section shall be applied during that year by substituting "\$335,000" for "\$500,000" where it appears in paragraph (3).

**(c) Criteria for direct reallocation**

The Secretary shall establish objective criteria for making direct reallocations to any participating jurisdiction and other eligible entities. A jurisdiction shall be eligible for a direct reallocation under this subsection only if the jurisdiction, in a form acceptable to the Secretary, submits an application that demonstrates to the satisfaction of the Secretary that the jurisdiction is engaged, or has made good faith efforts to engage, in cooperative efforts between the State and appropriate participating jurisdictions within the State to develop, coordinate, and implement housing strategies under this subchapter. The Secretary shall by regulation establish objective selection criteria for such direct reallocations, which criteria shall take into account—

(1) the applicant's demonstrated commitment to expand the supply of affordable rental housing, including units developed by public housing agencies, as indicated by the additional number of units of affordable housing made available through production or rehabilitation within the previous 2 years, making adjustment for regional variations in construction and rehabilitation costs and giving special consideration to the number of additional units made available under this subchapter through production or rehabilitation, including units developed by public housing agencies, in relation to the amounts made available under this program;

(2) the applicant's actions that—

(A) direct funds made available under this part to benefit very low-income families,

with a range of incomes, in amounts that exceed the income targeting requirements of section 12744 of this title, with extra consideration given for activities that expand the supply of affordable housing for very low-income families whose incomes do not exceed 30 percent of the median family income for the area, as determined by the Secretary;

(B) apply the tenant selection preference categories applicable under section 1437f of this title to the selection of tenants for housing assisted under this part;

(C) provide matching resources in excess of funds required under section 12750 of this title; and

(D) stimulate a high degree of investment and participation in development by the private sector, including nonprofit organizations; and

(3) the degree to which the applicant is pursuing policies that—

(A) make existing housing more affordable;

(B) remove or ameliorate any negative effects that public policies identified by the applicant pursuant to section 12705(b)(4) of this title may have on the cost of housing or the incentives to develop, maintain, or improve affordable housing in the jurisdiction;

(C) preserve the affordability of privately-owned housing that is vulnerable to conversion, demolition, disinvestment, or abandonment;

(D) increase the supply of housing that is affordable to very low-income and low-income persons, particularly in areas that are accessible to expanding job opportunities; and

(E) remedy the effects of discrimination and improve housing opportunities for disadvantaged minorities.

#### (d) Reallocations

##### (1) In general

The Secretary shall make any reallocations periodically throughout each fiscal year so as to ensure that all funds to be reallocated are made available to eligible jurisdictions as soon as possible, consistent with orderly program administration. Jurisdictions eligible for such reallocations shall include participating jurisdictions and jurisdictions meeting the requirements of paragraphs (3), (4), and (5) of section 12746 of this title.

##### (2) Commitments

The Secretary shall establish procedures according to which participating jurisdictions may make commitments to invest funds made available under this section. Such procedures shall provide for appropriate stages of commitment of funds to a project from initial reservation through binding commitment. Notwithstanding any other provision of this subchapter, funds that the Secretary determines are needed to fulfill binding commitments shall not be available for reallocation.

##### (3) Limitation

Unless otherwise specified in this part, any reallocation of funds from a State shall be

made only among all participating States, and any reallocation of funds from units of general local government shall be made only among all participating units of general local government.

(Pub. L. 101-625, title II, §217, Nov. 28, 1990, 104 Stat. 4105; Pub. L. 102-229, title I, Dec. 12, 1991, 105 Stat. 1709; Pub. L. 102-230, §1, Dec. 12, 1991, 105 Stat. 1720; Pub. L. 102-273, §1, Apr. 21, 1992, 106 Stat. 113; Pub. L. 102-389, title II, Oct. 6, 1992, 106 Stat. 1581; Pub. L. 102-550, title II, §§202(b), 203(b), 211(a)(2), Oct. 28, 1992, 106 Stat. 3751, 3752, 3756; Pub. L. 104-330, title V, §505(a)(1), Oct. 26, 1996, 110 Stat. 4044; Pub. L. 105-65, title II, §214, Oct. 27, 1997, 111 Stat. 1366.)

#### AMENDMENTS

1997—Subsec. (b)(3). Pub. L. 105-65, in first sentence, substituted “jurisdictions that are allocated an amount of \$500,000 or more, and participating jurisdictions (other than consortia that fail to renew the membership of all of their member jurisdictions) that are allocated an amount less than \$500,000, shall receive an allocation” for “only those jurisdictions that are allocated an amount of \$500,000 or greater shall receive an allocation”.

1996—Subsec. (a)(1). Pub. L. 104-330, §505(a)(1)(A), struck out “reserving amounts under paragraph (2) for Indian tribes and after” after “After”.

Subsec. (a)(2). Pub. L. 104-330, §505(a)(1)(B), struck out heading and text of par. (2). Text read as follows: “For each fiscal year, of the amount approved in an appropriations Act to carry out this subchapter, the Secretary shall reserve for grants to Indian tribes 1 percent of the amount appropriated under such section. The Secretary shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment.”

1992—Subsec. (a)(1). Pub. L. 102-550, §211(a)(2)(A), added first sentence and struck out former first sentence which read as follows: “After reserving amounts for Indian tribes as required by paragraph (2) of this subsection and after reserving amounts for the insular areas under paragraph (3), the Secretary shall allocate funds approved in an appropriations Act to carry out this subchapter by formula as provided in subsection (b) of this section.”

Pub. L. 102-389 made identical amendment to those made by Pub. L. 102-229 and Pub. L. 102-230, §1(1). See 1991 Amendment note below.

Subsec. (a)(3). Pub. L. 102-550, §211(a)(2)(D), and Pub. L. 102-389 both added new pars. (3) related to insular areas. The text reflects the par. (3) added by Pub. L. 102-550. The par. (3) added by Pub. L. 102-389 read as follows: “For each fiscal year, of any amounts approved in appropriations Acts to carry out this subchapter, the Secretary shall reserve for grants to the insular areas the greater of (A) \$750,000, or (B) 0.2 percent of the amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment.”

Pub. L. 102-550, §211(a)(2)(C), struck out par. (3), as added by Pub. L. 102-230, §1(2), which read as follows:

“(A) IN GENERAL.—For each fiscal year, of any amount approved in an appropriations Act to carry out this subchapter, the Secretary shall reserve for grants to the insular areas an amount that reflects—

“(i) their share of the total population of eligible jurisdictions; and

“(ii) any adjustments that the Secretary determines are reasonable in light of available data that

are related to factors set forth in subsection (b)(1)(B) of this section.

“(B) SPECIFIC CRITERIA.—The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas in accordance with specific criteria to be set forth in a regulation promulgated by the Secretary after notice and public comment.

“(C) TRANSITIONAL PROVISIONS.—For fiscal year 1992, the reservation for insular areas specified in subparagraph (A) shall be made from any funds which become available for reallocation in accordance with the provisions of section 12746(6)(A) of this title.”

Pub. L. 102-550, §211(a)(2)(B), struck out par. (3), as added by Pub. L. 102-229, which read as follows: “For each fiscal year, of any amounts approved in appropriations Acts to carry out this subchapter, the Secretary shall reserve for grants to the insular areas the greater of (A) \$750,000, or (B) 0.5 percent of the amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment.”

Subsec. (b)(1)(A). Pub. L. 102-550, §203(b)(1), (6), redesignated subpar. (B) as (A) and struck out former subpar. (A) which provided for a formula for allocation of funds for production of affordable rental housing through new construction or substantial rehabilitation.

Pub. L. 102-273 added cl. (iii) reading as follows: “Notwithstanding clauses (i) and (ii), any jurisdiction receiving amounts made available under such clause may, at the discretion of the jurisdiction, use such amounts for other eligible uses in accordance with section 12742 of this title if the jurisdiction determines that such use will better meet the housing needs within the jurisdiction. This clause shall be effective only with respect to funds provided under the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102-139; 105 Stat. 744), which suspends the requirement of contributions by participating jurisdictions, and shall become ineffective if such requirement is reimposed.”

Subsec. (b)(1)(B), (C). Pub. L. 102-550, §203(b)(6), redesignated subpars. (C) and (D) as (B) and (C), respectively. Former subpar. (B) redesignated (A).

Subsec. (b)(1)(D). Pub. L. 102-550, §203(b)(6), redesignated subpar. (E) as (D). Former subpar. (D) redesignated (C).

Pub. L. 102-550, §203(b)(2), substituted “The basic formula established under subparagraph (A)” for “Except as provided in subparagraph (A), the basic formula established under subparagraph (B)”.

Subsec. (b)(1)(E). Pub. L. 102-550, §203(b)(6), redesignated subpar. (F) as (E). Former subpar. (E) redesignated (D).

Pub. L. 102-550, §203(b)(3), substituted “formula in subparagraph (A)” for “formulas in subparagraph (B)”.

Subsec. (b)(1)(F). Pub. L. 102-550, §203(b)(6), redesignated subpar. (G) as (F). Former subpar. (F) redesignated (E).

Pub. L. 102-550, §203(b)(4), substituted “basic formula in subparagraph (A)” for “basic formula in subparagraph (B)” and struck out at end “If a jurisdiction receives an allocation under subparagraph (A), the Secretary shall make such adjustments in the jurisdiction’s allocation under the formula in subparagraph (B) as may be necessary to ensure that the combined effect of the formulas in subparagraphs (A) and (B) does not reduce the allocation of any jurisdiction below the allocation it would receive if allocations were made according to the formula under subparagraph (B) alone.”

Subsec. (b)(1)(G). Pub. L. 102-550, §203(b)(6), redesignated subpar. (G) as (F).

Pub. L. 102-550, §203(b)(5), substituted “formula in subparagraph (A)” for “formulas in subparagraphs (A) and (B)”.

Subsec. (b)(3). Pub. L. 102-550, §202(b)(1), inserted before period at end “, except as provided in paragraph (4)”.

Subsec. (b)(4). Pub. L. 102-550, §202(b)(2), added par. (4).

1991—Subsec. (a)(1). Pub. L. 102-229 and Pub. L. 102-230, §1(1), amended par. (1) identically, inserting before first comma “and after reserving amounts for the insular areas under paragraph (3)”.

Subsec. (a)(3). Pub. L. 102-229 and Pub. L. 102-230, §1(2), which were enacted on the same day, both added new pars. (3) relating to insular areas.

#### CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Section 505(b) of Pub. L. 104-330 provided that: “The amendments under subsection (a) [amending this section and section 12838 of this title] shall apply with respect to amounts made available for assistance under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.] for fiscal year 1998 and fiscal years thereafter.”

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 211(a)(2) of Pub. L. 102-550 applicable with respect to fiscal year 1993 and thereafter, see section 211(b) of Pub. L. 102-550, set out as a note under section 12704 of this title.

Amendment by sections 202(b) and 203(b) of Pub. L. 102-550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102-550, set out as a note under section 12704 of this title.

#### APPLICABILITY OF GRANT THRESHOLDS

Grant thresholds provided for in subsec. (b) of this section as amended by Pub. L. 102-550 to apply notwithstanding any other provision of law, see section 202(c) of Pub. L. 102-550, set out as a note under section 12746 of this title.

#### EXPEDITED ISSUANCE OF REGULATION

Section 211(a)(3) of Pub. L. 102-550 provided that: “The regulation referred to in the amendment made by paragraph (2)(D) [amending this section] shall take effect not later than the expiration of the 90-day period beginning on the date of the enactment of this Act [Oct. 28, 1992]. The regulation shall not be subject to the requirements of subsections (b) and (c) of section 553 of title 5, United States Code, or section 7(o) of the Department of Housing and Urban Development Act [42 U.S.C. 3535(o)].”

### § 12748. HOME Investment Trust Funds

#### (a) Establishment

The Secretary shall establish for each participating jurisdiction a HOME Investment Trust Fund, which shall be an account (or accounts as provided in section 12749(c) of this title) for use solely to invest in affordable housing within the participating jurisdiction’s boundaries or within

the boundaries of contiguous jurisdictions in joint projects which serve residents from both jurisdictions in accordance with the provisions of this part.

**(b) Line of credit**

The Secretary shall establish a line of credit in the HOME Investment Trust Fund of each participating jurisdiction, which line of credit shall include—

- (1) funds allocated or reallocated to the participating jurisdiction under section 12747 of this title, and
- (2) any payment or repayment made pursuant to section 12749 of this title.

**(c) Reductions**

A participating jurisdiction's line of credit shall be reduced by—

- (1) funds drawn from the HOME Investment Trust Fund by the participating jurisdiction,
- (2) funds expiring under subsection (g) of this section, and
- (3) any penalties assessed by the Secretary under section 12754<sup>1</sup> of this title.

**(d) Certification**

A participating jurisdiction may draw funds from its HOME Investment Trust Fund, but not to exceed the remaining line of credit, only after providing certification that the funds shall be used pursuant to the participating jurisdiction's approved housing strategy and in compliance with all requirements of this subchapter. When such certification is received, the Secretary shall immediately disburse such funds in accordance with the form of the assistance determined by the participating jurisdiction.

**(e) Investment within 15 days**

The participating jurisdiction shall, not later than 15 days after funds are drawn from the jurisdiction's HOME Investment Trust Fund, invest such funds, together with any interest earned thereon, in the affordable housing for which the funds were withdrawn.

**(f) No interest or fees**

The Secretary shall not charge any interest or levy any other fee with regard to funds in a HOME Investment Trust Fund.

**(g) Expiration of right to draw funds**

If any funds becoming available to a participating jurisdiction under this subchapter are not placed under binding commitment to affordable housing within 24 months after the last day of the month in which such funds are deposited in the jurisdiction's HOME Investment Trust Fund, the jurisdiction's right to draw such funds from the HOME Investment Trust Fund shall expire. The Secretary shall reduce the line of credit in the participating jurisdiction's HOME Investment Trust Fund by the expiring amount and shall reallocate the funds by formula in accordance with section 12747(d) of this title.

**(h) Administrative provision**

The Secretary shall keep each participating jurisdiction informed of the status of its HOME Investment Trust Fund, including the status of amounts under various stages of commitment.

(Pub. L. 101-625, title II, §218, Nov. 28, 1990, 104 Stat. 4109; Pub. L. 102-550, title II, §§203(c), 221, Oct. 28, 1992, 106 Stat. 3752, 3762.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-550, §221, inserted “or within the boundaries of contiguous jurisdictions in joint projects which serve residents from both jurisdictions” after “boundaries”.

Subsec. (g). Pub. L. 102-550, §203(c), substituted “If” for “Except as provided in section 12747(b)(1)(A)(ii) of this title, if”.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102-550, set out as a note under section 12704 of this title.

**§ 12749. Repayment of investment**

**(a) In general**

Any repayment of funds drawn from a jurisdiction's HOME Investment Trust Fund, and any payment of interest or other return on the investment of such funds, shall be deposited in such jurisdiction's HOME Investment Trust Fund, except that, if the jurisdiction is not a participating jurisdiction when such payment or repayment is made, the amount of such payment or repayment shall be reallocated in accordance with section 12747(d) of this title.

**(b) Assurance of repayment**

Each participating jurisdiction shall enter into an agreement with the Secretary ensuring that funds invested in affordable housing under this part are repayable when the housing no longer qualifies as affordable housing. Any repayment under the previous sentence shall be for deposit in the HOME Investment Trust Fund of the jurisdiction making the investment; except that if such jurisdiction is not a participating jurisdiction when such repayment is made, the amount of such repayment shall be reallocated in accordance with section 12747(d) of this title.

**(c) Availability**

The Secretary shall take such actions as are necessary to ensure that any repayments deposited in a HOME Investment Trust Fund in accordance with this section shall be immediately available to the participating jurisdiction for investment subject to the provisions of this part that apply to funds that are allocated under section 12747 of this title. Actions authorized under the preceding sentence may include authorizing the establishment for a participating jurisdiction of a HOME Investment Trust Fund account outside of the Federal Government that, under arrangements satisfactory to the Secretary, shall be used solely to invest in affordable housing within the participating jurisdiction's boundaries in accordance with the provisions of this subchapter. Such accounts shall be established in such a manner that repayments are not receipts or collections of the Federal Government.

(Pub. L. 101-625, title II, §219, Nov. 28, 1990, 104 Stat. 4110.)

<sup>1</sup> So in original. Probably should be section “12753”.

**§ 12750. Matching requirements****(a) Contribution**

Each participating jurisdiction shall make contributions to housing that qualifies as affordable housing under this subchapter that total, throughout a fiscal year, not less than 25 percent of the funds drawn from the jurisdiction's HOME Investment Trust Fund in such fiscal year. Such contributions shall be in addition to any amounts made available under section 12746(3)(A)(ii) of this title.

**(b) Recognition****(1) In general**

A contribution shall be recognized for purposes of subsection (a) of this section only if it—

(A) is made with respect to housing that qualifies as affordable housing under section 12745 of this title; or

(B) is made with respect to any portion of a project not less than 50 percent of the units of which qualify as affordable housing under section 12745 of this title.

**(2) Administrative expenses**

Contributions for administrative expenses may not be recognized for purposes of subsection (a) of this section.

**(c) Form**

Such contributions may be in the form of—

(1) cash contributions from non-Federal resources, which may not include funds from a grant made under section 5306(b) or section 5306(d) of this title;

(2) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that achieves affordability of housing assisted under this subchapter;

(3) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

(4) the value of investment in on-site and off-site infrastructure directly required for affordable housing assisted under this subchapter;

(5) Redesignated (4)

(6) up to—

(A) 50 percent of proceeds from bond financing validly issued by a State or local government, agency or instrumentality thereof, or political subdivision thereof, and repayable with revenues derived from a multifamily affordable housing project financed, and

(B) 25 percent of proceeds from bond financing validly issued by a State or local government, agency or instrumentality thereof, or political subdivision thereof, and repayable with revenues derived from a single-family project financed,

but not more than 25 percent of the contribution required under subsection (a) of this section may be derived from these sources;

(7) the reasonable value of any site-preparation and construction materials and any donated or voluntary labor in connection with the site-preparation for, or construction or rehabilitation of, affordable housing; and

(8) such other contributions to affordable housing as the Secretary considers appropriate.

**(d) Reduction of requirement****(1) In general**

The Secretary shall reduce the matching requirement under subsection (a) of this section with respect to any funds drawn from a jurisdiction's HOME Investment Trust Fund Account during a fiscal year by—

(A) 50 percent for a jurisdiction that certifies that it is in fiscal distress; and

(B) 100 percent for a jurisdiction that certifies that it is in severe fiscal distress.

**(2) Definitions**

For purposes of this section—

(A) "fiscal distress" means a jurisdiction other than a State that satisfies 1 of the distress criteria set forth in paragraph (3); and

(B) "severe fiscal distress" means a jurisdiction other than a State that satisfies both of the distress criteria set forth in paragraph (3).

**(3) Distress criteria**

For purposes of a jurisdiction other than a State certifying that it is distressed, the following criteria shall apply:

**(A) Poverty rate**

The average poverty rate in the jurisdiction for the calendar year immediately preceding the year in which its fiscal year begins was equal to or greater than 125 percent of the average national poverty rate during such calendar year (as determined according to information of the Bureau of the Census).

**(B) Per capita income**

The average per capita income in the jurisdiction for the calendar year immediately preceding the year in which its fiscal year begins was less than 75 percent of the average national per capita income during such calendar year (as determined according to information of the Bureau of the Census).

**(4) States**

In determining the degree to which a jurisdiction that is a State is distressed, the Secretary shall take into consideration the State's fiscal capacity and expenditure needs as determined by a national organization which compiles the relevant data.

**(5) Waiver in disaster areas**

If a participating jurisdiction is located in an area in which a declaration of a disaster pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.] is in effect for any part of a fiscal year, the Secretary may reduce the matching requirement for that fiscal year under subsection (a) of this section with respect to any funds drawn from a jurisdiction's HOME Investment Trust Fund Account during that fiscal year by up to 100 percent.

(Pub. L. 101-625, title II, §220, Nov. 28, 1990, 104 Stat. 4111; Pub. L. 102-550, title II, §§207(c), 210(a)-(c), Oct. 28, 1992, 106 Stat. 3753, 3755; Pub. L. 103-233, title II, §204, Apr. 11, 1994, 108 Stat. 364.)



## REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (d)(5), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§5121 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

## AMENDMENTS

1994—Subsec. (a). Pub. L. 103-233 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “Each participating jurisdiction shall make contributions to housing that qualifies as affordable housing under this subchapter that total, throughout a fiscal year, not less than—

“(1) 25 percent of the total funds drawn from the jurisdiction’s HOME Investment Trust Fund in that fiscal year with respect to rental assistance, housing rehabilitation and substantial rehabilitation; and

“(2) 30 percent of the total funds drawn from the jurisdiction’s HOME Investment Trust Fund in that fiscal year with respect to new construction.

Such contributions shall be in addition to any amounts made available under section 12746(3)(A)(ii) of this title.”

1992—Subsec. (a). Pub. L. 102-550, §210(a)(4), substituted “housing that qualifies as affordable housing under this subchapter” for “affordable housing assisted under this subchapter” in introductory provisions.

Subsec. (a)(1). Pub. L. 102-550, §210(a)(1), substituted “, housing rehabilitation and substantial rehabilitation; and” for “and housing rehabilitation;”.

Subsec. (a)(2). Pub. L. 102-550, §210(a)(2), substituted “30” for “33” and “new construction.” for “substantial rehabilitation; and”.

Subsec. (a)(3). Pub. L. 102-550, §210(a)(3), struck out par. (3) which read as follows: “50 percent of the total funds drawn from the jurisdiction’s HOME Investment Trust Fund in that fiscal year with respect to new construction.”

Subsec. (b)(2). Pub. L. 102-550, §207(c)(1), substituted “may not be recognized for purposes of subsection (a) of this section” for “shall be recognized only up to an amount equal to 7 percent of funds provided for investment under this subchapter”.

Subsec. (c)(2). Pub. L. 102-550, §207(c)(2), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: “payment of administrative expenses, as defined by the Secretary, from non-Federal resources, which may include funds from a grant made under section 5306(b) or section 5306(d) of this title;”.

Subsec. (c)(3). Pub. L. 102-550, §210(b)(1), which directed the striking of “and” at end of par. (4), was executed by striking “and” at end of par. (3) to reflect the probable intent of Congress and the redesignation of par. (4) as (3). See below.

Pub. L. 102-550, §207(c)(2)(B), redesignated par. (4) as (3). Former par. (3) redesignated (2).

Subsec. (c)(4). Pub. L. 102-550, §210(b)(2), which directed the substitution of a semicolon for the period at end of par. (5), was executed by making the substitution at end of par. (4) to reflect the probable intent of Congress and the redesignation of par. (5) as (4). See below.

Pub. L. 102-550, §207(c)(2)(B), redesignated par. (5) as (4). Former par. (4) redesignated (3).

Subsec. (c)(5). Pub. L. 102-550, §207(c)(2)(B), redesignated par. (5) as (4).

Subsec. (c)(6) to (8). Pub. L. 102-550, §210(b)(3), added pars. (6) to (8).

Subsec. (d). Pub. L. 102-550, §210(c), added subsec. (d) and struck out former subsec. (d) which read as follows: “If a jurisdiction demonstrates to the satisfaction of the Secretary that a reduction of the matching requirement specified in subsection (a) of this section is necessary to permit the jurisdiction to carry out the purposes of this subchapter, the Secretary may reduce the matching requirement during a period not to exceed 3

years after the jurisdiction is first designated as a participating jurisdiction. Such reduction shall be not more than 75 percent in the first year, not more than 50 percent in the second year, and not more than 25 percent in the third year.”

## EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-233 applicable with respect to any amounts made available to carry out this subchapter after Apr. 11, 1994, and any amounts made available to carry out this subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out such amendment not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103-233, set out as a note under section 5301 of this title.

## EFFECTIVE DATE OF 1992 AMENDMENT

Section 210(d) of Pub. L. 102-550 provided that: “The amendments made by this section [amending this section] shall apply with respect to fiscal year 1993 and each fiscal year thereafter.”

Amendment by section 207(c) of Pub. L. 102-550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102-550, set out as a note under section 12704 of this title.

## § 12751. Private-public partnership

Each participating jurisdiction shall make all reasonable efforts, consistent with the purposes of this subchapter, to maximize participation by the private sector, including nonprofit organizations and for-profit entities, in the implementation of the jurisdiction’s housing strategy, including participation in the financing, development, rehabilitation and management of affordable housing. Nothing in the previous sentence shall preclude public housing authorities from fully participating in the implementation of a jurisdiction’s housing strategy.

(Pub. L. 101-625, title II, §221, Nov. 28, 1990, 104 Stat. 4112.)

## § 12752. Distribution of assistance

## (a) Local

Each participating jurisdiction shall, insofar as is feasible, distribute assistance under this part geographically within its boundaries and among different categories of housing need, according to the priorities of housing need identified in the jurisdiction’s approved housing strategy.

## (b) State

Participating States shall be responsible for distributing assistance throughout the State according to the State’s assessment of the geographical distribution of the housing need within the State, as identified in the State’s approved housing strategy. Participating States shall distribute assistance to rural areas in amounts that take into account the nonmetropolitan share of the State’s total population and objective measures of rural housing need, such as poverty and substandard housing, as set forth in the State’s housing strategy approved under section 12705 of this title. To the extent the need is within the boundaries of a participating unit of general local government, the State and the unit of general local government shall coordinate activities to address that need.

(Pub. L. 101-625, title II, §222, Nov. 28, 1990, 104 Stat. 4112.)

#### § 12753. Penalties for misuse of funds

If the Secretary finds after reasonable notice and opportunity for hearing that a participating jurisdiction has failed to comply substantially with any provision of this part and until the Secretary is satisfied that there is no longer any such failure to comply, the Secretary shall reduce the line of credit in the participating jurisdiction's HOME Investment Trust Fund by the amount of any expenditures that were not in accordance with the requirements of this subchapter, and the Secretary may—

(1) prevent withdrawals from the participating jurisdiction's HOME Investment Trust Fund for activities affected by such failure to comply;

(2) restrict the participating jurisdiction's activities under this subchapter to activities that conform to one or more model programs made available under section 12743 of this title; or

(3) remove the participating jurisdiction from participation in allocations or reallocations of funds made available under this part.

(Pub. L. 101-625, title II, §223, Nov. 28, 1990, 104 Stat. 4112.)

#### § 12754. Limitation on jurisdictions under court order

##### (a) In general

Notwithstanding any other provision of this Act, the Secretary shall ensure that funds provided under this part are not employed to carry out housing remedies or to pay fines, penalties, or costs associated with an action in which—

(1) a participating jurisdiction has been adjudicated, by a Federal, State, or local court, to be in violation of title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], the Fair Housing Act [42 U.S.C. 3601 et seq.], or any other Federal, State, or local law promoting fair housing or prohibiting discrimination, or

(2) a settlement has been entered into in any case where claims of such violations have been asserted against a participating jurisdiction, except to the extent permitted by subsection (b) of this section.

##### (b) Remedial use of funds permitted

In the case of settlement described in subsection (a)(2) of this section, a jurisdiction may use funds provided under this Act to carry out housing remedies with eligible activities.

(Pub. L. 101-625, title II, §224, Nov. 28, 1990, 104 Stat. 4113.)

#### REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 101-625, Nov. 28, 1990, 104 Stat. 4079, known as the Cranston-Gonzalez National Affordable Housing Act. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (a)(1), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title.

For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Fair Housing Act, referred to in subsec. (a)(1), is title VIII of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

#### § 12755. Tenant and participant protections

##### (a) Lease

The lease between a tenant and an owner of affordable housing assisted under this subchapter for rental shall be for not less than one year, unless by mutual agreement between the tenant and the owner, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

##### (b) Termination of tenancy

An owner shall not terminate the tenancy or refuse to renew the lease of a tenant of rental housing assisted under this subchapter except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause. Any termination or refusal to renew must be preceded by not less than 30 days by the owner's service upon the tenant of a written notice specifying the grounds for the action.

##### (c) Maintenance and replacement

The owner of rental housing assisted under this subchapter shall maintain the premises in compliance with all applicable housing quality standards and local code requirements.

##### (d) Tenant selection

The owner of rental housing assisted under this subchapter shall adopt written tenant selection policies and criteria that—

(1) are consistent with the purpose of providing housing for very low-income and low-income families,

(2) are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease,

(3) give reasonable consideration to the housing needs of families that would have a preference under section 1437d(c)(4)(A)<sup>1</sup> of this title, and

(4) provide for (A) the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable, and (B) for<sup>2</sup> the prompt notification in writing of any rejected applicant of the grounds for any rejection.

(Pub. L. 101-625, title II, §225, Nov. 28, 1990, 104 Stat. 4113.)

#### REFERENCES IN TEXT

Section 1437d(c)(4)(A) of this title, referred to in subsec. (d)(3), was redesignated section 1437d(c)(5)(A) of this title by Pub. L. 109-162, title VI, §607(1), Jan. 5, 2006, 119 Stat. 3048.

#### § 12756. Monitoring of compliance

##### (a) Enforceable agreements

Each participating jurisdiction, through binding contractual agreements with owners and

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original. The word "for" probably should not appear.

otherwise, shall ensure long-term compliance with the provisions of this subchapter. Such measures shall provide for (1) enforcement of the provisions of this subchapter by the jurisdiction or by the intended beneficiaries, and (2) remedies for the breach of such provisions.

**(b) Periodic monitoring**

Each participating jurisdiction, not less frequently than annually, shall review the activities of owners of affordable housing assisted under this subchapter for rental to assess compliance with the requirements of this subchapter. Such review shall include on-site inspection to determine compliance with housing codes and other applicable regulations. The results of each review shall be included in the jurisdiction's performance report submitted to the Secretary under section 12708(a) of this title and made available to the public.

**(c) Special procedures for certain projects**

In the case of small-scale or scattered site housing, the Secretary may provide for such streamlined procedures for achieving the purposes of this section as the Secretary determines to be appropriate.

(Pub. L. 101-625, title II, § 226, Nov. 28, 1990, 104 Stat. 4114.)

PART B—COMMUNITY HOUSING PARTNERSHIP

**§ 12771. Set-aside for community housing development organizations**

**(a) In general**

For a period of 24 months after funds under part A of this subchapter are made available to a jurisdiction, the jurisdiction shall reserve not less than 15 percent of such funds for investment only in housing to be developed, sponsored, or owned by community housing development organizations. Each participating jurisdiction shall make reasonable efforts to identify community housing development organizations that are capable or can reasonably be expected to become capable of carrying out elements of the jurisdiction's housing strategy and to encourage such community housing development organizations to do so. If during the first 24 months of its participation under this subchapter, a participating jurisdiction is unable to identify a sufficient number of capable community housing development organizations, then up to 20 percent of the funds allocated to that jurisdiction under this section, but not to exceed \$150,000, may be made available to carry out activities that develop the capacity of community housing development organizations in that jurisdiction. A participating jurisdiction is authorized to enter into contracts with community housing development organizations to carry out this section.

**(b) Recapture and reuse**

If any funds reserved under subsection (a) of this section remain uninvested for a period of 24 months, then the Secretary shall deduct such funds from the line of credit in the participating jurisdiction's HOME Investment Trust Fund and make such funds available by direct reallocation (1) to other participating jurisdictions for affordable housing developed, sponsored or owned

by community housing development organizations, or (2) to nonprofit intermediary organizations to carry out activities that develop the capacity of community housing development organizations consistent with section 12773 of this title, with preference to community housing development organizations serving the jurisdiction from which the funds were recaptured.

**(c) Direct reallocation criteria**

Insofar as practicable, direct reallocations under this section shall be made according to the selection criteria established under section 12747(c) of this title.

(Pub. L. 101-625, title II, § 231, Nov. 28, 1990, 104 Stat. 4114; Pub. L. 102-550, title II, § 212(a), (b), Oct. 28, 1992, 106 Stat. 3757.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-550 substituted “24” for “18” in first sentence and inserted after second sentence “If during the first 24 months of its participation under this subchapter, a participating jurisdiction is unable to identify a sufficient number of capable community housing development organizations, then up to 20 percent of the funds allocated to that jurisdiction under this section, but not to exceed \$150,000, may be made available to carry out activities that develop the capacity of community housing development organizations in that jurisdiction.”

Subsec. (b). Pub. L. 102-550, § 212(a), substituted “24” for “18”.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102-550, set out as a note under section 12704 of this title.

**§ 12772. Project-specific assistance to community housing development organizations**

**(a) In general**

Amounts reserved under section 12771 of this title may be used for activities eligible under section 12742 of this title and, in amounts not to exceed 10 percent of the amounts so reserved, for other activities specified under this section.

**(b) Project-specific technical assistance and site control loans**

**(1) In general**

Amounts reserved under section 12771 of this title may be used to provide technical assistance and site control loans to community housing development organizations in the early stages of site development for an eligible project. Such loans shall not exceed amounts that the jurisdiction determines to be customary and reasonable project preparation costs allowable under paragraph (2).

**(2) Allowable expenses**

A loan under this subsection may be provided to cover project expenses necessary to determine project feasibility (including costs of an initial feasibility study), consulting fees, costs of preliminary financial applications, legal fees, architectural fees, engineering fees, engagement of a development team, site control and title clearance.

**(3) Repayment**

A community housing development organization that receives a loan under this sub-

section shall repay the loan to the participating jurisdiction's HOME Investment Trust Fund from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in part or in whole, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the borrower.

**(c) Project-specific seed money loans**

**(1) In general**

Amounts reserved under section 12771 of this title may be used to provide loans to community housing development organizations to cover preconstruction project costs that the jurisdiction determines to be customary and reasonable, including, but not limited to the costs of obtaining firm construction loan commitments, architectural plans and specifications, zoning approvals, engineering studies and legal fees.

**(2) Eligible sponsors**

A loan under this subsection may be provided only to a community housing development organization that has, with respect to the project concerned, site control, a preliminary financial commitment, and a capable development team.

**(3) Repayment**

A community housing development organization that receives a loan under this subsection shall repay the loan to the jurisdiction's HOME Investment Trust Fund from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in whole or in part, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the borrower.

(Pub. L. 101-625, title II, § 232, Nov. 28, 1990, 104 Stat. 4115.)

**§ 12773. Housing education and organizational support**

**(a) In general**

The Secretary is authorized to provide education and organizational support assistance, in conjunction with other assistance made available under this part—

(1) to facilitate the education of low-income homeowners and tenants;

(2) to promote the ability of community housing development organizations, including community land trusts, to maintain, rehabilitate and construct housing for low-income and moderate-income families in conformance with the requirements of this subchapter; and

(3) to achieve the purposes under paragraphs (1) and (2) by helping women who reside in low- and moderate-income neighborhoods rehabilitate and construct housing in the neighborhoods.

**(b) Eligible activities**

Assistance under this section may be used only for the following eligible activities:

**(1) Organizational support**

Organizational support assistance may be made available to community housing devel-

opment organizations to cover operational expenses and to cover expenses for training and technical, legal, engineering and other assistance to the board of directors, staff, and members of the community housing development organization.

**(2) Housing education**

Housing education assistance may be made available to community housing development organizations to cover expenses for providing or administering programs for educating, counseling, or organizing homeowners and tenants who are eligible to receive assistance under other provisions of this subchapter.

**(3) Program-wide support of nonprofit development and management**

Technical assistance, training, and continuing support may be made available to eligible community housing development organizations for managing and conserving properties developed under this subchapter.

**(4) Benevolent loan funds**

Technical assistance may be made available to increase the investment of private capital in housing for very low-income families, particularly by encouraging the establishment of benevolent loan funds through which private financial institutions will accept deposits at below-market interest rates and make those funds available at favorable rates to developers of low-income housing and to low-income homebuyers.

**(5) Community development banks and credit unions**

Technical assistance may be made available to establish privately owned, local community development banks and credit unions to finance affordable housing.

**(6) Community land trusts**

Organizational support, technical assistance, education, training, and continuing support under this subsection may be made available to community land trusts (as such term is defined in subsection (f) of this section) and to community groups for the establishment of community land trusts.

**(7) Facilitating women in homebuilding professions**

Technical assistance may be made available to businesses, unions, and organizations involved in construction and rehabilitation of housing in low- and moderate-income areas to assist women residing in the area to obtain jobs involving such activities, which may include facilitating access by such women to, and providing, apprenticeship and other training programs regarding nontraditional skills, recruiting women to participate in such programs, providing continuing support for women at job sites, counseling and educating businesses regarding suitable work environments for women, providing information to such women regarding opportunities for establishing small housing construction and rehabilitation businesses, and providing materials and tools for training such women (in an amount not exceeding 10 percent of any assist-

ance provided under this paragraph). The Secretary shall give priority under this paragraph to providing technical assistance for organizations rehabilitating single family or multi-family housing owned or controlled by the Secretary pursuant to title II of the National Housing Act [12 U.S.C. 1707 et seq.] and which have women members in occupations in which women constitute 25 percent or less of the total number of workers in the occupation (in this section referred to as “nontraditional occupations”).

**(c) Delivery of assistance**

The Secretary shall provide this assistance only through contract—

(1) with a nonprofit intermediary organization that, in the determination of the Secretary—

(A) customarily provides, in more than one community, services related to the provision of decent housing that is affordable to low-income and moderate-income persons or the revitalization of deteriorating neighborhoods;

(B) has demonstrated experience in providing a range of assistance (such as financing, technical assistance, construction and property management assistance, capacity building and training) to community housing development organizations or similar organizations that engage in community revitalization;

(C) has demonstrated the ability to provide technical assistance and training for community-based developers of affordable housing;

(D) has described the uses to which such assistance will be put and the intended beneficiaries of the assistance; and

(E) in the case of activities under subsection (b)(7) of this section, is a community-based organization (as such term is defined in section 4 of the Job Training Partnership Act) or public housing agency, which has demonstrated experience in preparing women for apprenticeship training in construction or administering programs for training women for construction or other nontraditional occupations (and such organizations may use assistance for activities under such subsection to employ women in housing construction and rehabilitation activities to the extent that the organization has the capacity to conduct such activities); or

(2) with another organization, if a participating jurisdiction demonstrates that the organization is qualified to carry out eligible activities and that the jurisdiction would not be served in a timely manner by intermediaries specified under paragraph (1).

Contracts under paragraph (2) shall be for activities specified in an application from the participating jurisdiction, which application shall include a certification that the activities are necessary to the effective implementation of the participating jurisdiction’s housing strategy.

**(d) Limitations**

Contracts under this section with any one contractor for a fiscal year may not—

(1) exceed 40 percent of the amount appropriated for this section for such fiscal year; or

(2) provide more than 20 percent of the operating budget (which shall not include funds that are passed through to community housing development organizations) of the contracting organization for any one year.

**(e) Single-State contractors**

Not less than 25 percent of the funds made available for this section in an appropriations Act in any fiscal year shall be made available for eligible contractors that have worked primarily in one State. The Secretary shall provide assistance under this section, to the extent applications are submitted and approved, to contractors in each of the geographic regions having a regional office of the Department of Housing and Urban Development.

**(f) “Community land trust” defined**

For purposes of this section, the term “community land trust” means a community housing development organization (except that the requirements under subparagraphs (C) and (D) of section 12704(6) of this title shall not apply for purposes of this subsection)—

(1) that is not sponsored by a for-profit organization;

(2) that is established to carry out the activities under paragraph (3);

(3) that—

(A) acquires parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;

(B) transfers ownership of any structural improvements located on such leased parcels to the lessees; and

(C) retains a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low- and moderate-income families in perpetuity;

(4) whose corporate membership that is open to any adult resident of a particular geographic area specified in the bylaws of the organization; and

(5) whose board of directors—

(A) includes a majority of members who are elected by the corporate membership; and

(B) is composed of equal numbers of (i) lessees pursuant to paragraph (3)(B), (ii) corporate members who are not lessees, and (iii) any other category of persons described in the bylaws of the organization.

(Pub. L. 101-625, title II, §233, Nov. 28, 1990, 104 Stat. 4116; Pub. L. 102-550, title II, §213, Oct. 28, 1992, 106 Stat. 3757; Pub. L. 111-8, div. I, title II, §229(1), (2), Mar. 11, 2009, 123 Stat. 978.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (b)(7), is act June 27, 1934, ch. 847, 48 Stat. 1246. Title II of the Act is classified principally to subchapter II (§1707 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

Section 4 of the Job Training Partnership Act, referred to in subsec. (c)(1)(E), which was classified to section 1503 of Title 29, Labor, was repealed by Pub. L.

105-220, title I, §199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. Pursuant to section 2940(b) of Title 29, references to a provision of the Job Training Partnership Act, effective Aug. 7, 1998, are deemed to refer to that provision or the corresponding provision of the Workforce Investment Act of 1998, Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, and effective July 1, 2000, are deemed to refer to the corresponding provision of the Workforce Investment Act of 1998. For complete classification of the Workforce Investment Act of 1998 to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

#### AMENDMENTS

2009—Subsec. (d)(1). Pub. L. 111-8, §229(1), substituted “40” for “20”.

Subsec. (e). Pub. L. 111-8, §229(2), substituted “25” for “40”.

1992—Subsec. (a)(2). Pub. L. 102-550, §213(a)(1), inserted “, including community land trusts,” after “organizations”.

Subsec. (a)(3). Pub. L. 102-550, §213(b)(1), added par. (3).

Subsec. (b)(6). Pub. L. 102-550, §213(a)(2), added par. (6).

Subsec. (b)(7). Pub. L. 102-550, §213(b)(2), added par. (7).

Subsec. (c)(1)(E). Pub. L. 102-550, §213(b)(3), added subpar. (E).

Subsec. (e). Pub. L. 102-550, §213(b)(4), inserted at end “The Secretary shall provide assistance under this section, to the extent applications are submitted and approved, to contractors in each of the geographic regions having a regional office of the Department of Housing and Urban Development.”

Subsec. (f). Pub. L. 102-550, §213(a)(3), added subsec. (f).

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102-550, set out as a note under section 12704 of this title.

### § 12774. Other requirements

#### (a) Tenant participation plan

A community housing development organization that receives assistance under this part shall provide a plan for and follow a program of tenant participation in management decisions and shall adhere to a fair lease and grievance procedure approved by the participating jurisdiction.

#### (b) Limitation on assistance

A community housing development organization may not receive assistance under this subchapter for any fiscal year in an amount that provides more than 50 percent of the organization's total operating budget in the fiscal year or \$50,000 annually, whichever is greater.

#### (c) Adjustments of other assistance

The Secretary shall take account of assistance provided to a project under this part when adjusting other assistance to be provided to the project as required by section 3545(d) of this title.

(Pub. L. 101-625, title II, §234, Nov. 28, 1990, 104 Stat. 4117; Pub. L. 102-550, title II, §212(c), Oct. 28, 1992, 106 Stat. 3757.)

#### AMENDMENTS

1992—Subsec. (b). Pub. L. 102-550 struck out “, together with other Federal assistance,” after “in

an amount that” and inserted before period “or \$50,000 annually, whichever is greater”.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102-550, set out as a note under section 12704 of this title.

### PART C—OTHER SUPPORT FOR STATE AND LOCAL HOUSING STRATEGIES

#### § 12781. Authority

The Secretary shall, insofar as is feasible through contract with eligible organizations, develop the capacity of participating jurisdictions, State and local housing finance agencies, nonprofit organizations and for-profit corporations, working in partnership, to identify and meet needs for an increased supply of decent, affordable housing.

(Pub. L. 101-625, title II, §241, Nov. 28, 1990, 104 Stat. 4117.)

#### § 12782. Priorities for capacity development

To carry out section 12781 of this title, the Secretary shall provide assistance under this part to—

(1) facilitate the exchange of information that would help participating jurisdictions carry out the purposes of this subchapter, including information on program design, housing finance, land use controls, and building construction techniques;

(2) improve the ability of States and units of general local government to design and implement comprehensive housing affordability strategies, particularly those States and units of general local government that are relatively inexperienced in the development of affordable housing;

(3) encourage private lenders and for-profit developers of low-income housing to participate in public-private partnerships to achieve the purposes of this subchapter;

(4) improve the ability of States and units of general local government, community housing development organizations, private lenders, and for-profit developers of low-income housing to incorporate energy efficiency into the planning, design, financing, construction, and operation of affordable housing;

(5) facilitate the establishment and efficient operation of employer-assisted housing programs through research, technical assistance and demonstration projects; and

(6) facilitate the establishment and efficient operation of land bank programs, under which title to vacant and abandoned parcels of real estate located in or causing blighted neighborhoods is cleared for use consistent with the purposes of this subchapter.

(Pub. L. 101-625, title II, §242, Nov. 28, 1990, 104 Stat. 4118; Pub. L. 102-550, title II, §214(a), Oct. 28, 1992, 106 Stat. 3759.)

#### AMENDMENTS

1992—Par. (6). Pub. L. 102-550 added par. (6).

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-550 applicable to unexpended funds allocated under subchapter II of this

chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102-550, set out as a note under section 12704 of this title.

### § 12783. Conditions of contracts

#### (a) Eligible organizations

The Secretary shall carry out this part insofar as is practicable through contract with—

(1) a participating jurisdiction or agency thereof;

(2) a public purpose organization established pursuant to State or local legislation and responsible to the chief elected official of a participating jurisdiction;

(3) an agency or authority established by two or more participating jurisdictions to carry out activities consistent with the purposes of this subchapter;

(4) a national or regional nonprofit organization that has a membership comprised predominantly of entities or officials of entities that qualify under paragraph (1), (2), or (3); or

(5) a professional and technical services company or firm that has demonstrated capacity to provide services under this part.

#### (b) Contract terms

Contracts under this part shall be for not more than 3 years and shall provide not more than 20 percent of the operating budget of the contracting organization in any one year. Within any fiscal year, contracts with any one organization may not be entered into for a total of more than 40 percent of the funds appropriated under this part in that fiscal year.

(Pub. L. 101-625, title II, § 243, Nov. 28, 1990, 104 Stat. 4118; Pub. L. 111-8, div. I, title II, § 229(3), Mar. 11, 2009, 123 Stat. 978.)

#### AMENDMENTS

2009—Subsec. (b). Pub. L. 111-8 substituted “40 percent of the funds” for “20 percent of the funds”.

### § 12784. Research in housing affordability

The Secretary is authorized to support, through contracts with eligible organizations and otherwise, such research and to publish such reports as will assist in the achievement of the purposes of this subchapter. Activities authorized by the previous sentence may include an ongoing analysis of the impact of public policies at the Federal, State, and local levels, both individually and in the aggregate, on the incentives to expand and maintain the supply of energy-efficient affordable housing in the United States, particularly in areas with severe problems of housing affordability, through the use of cost-saving innovative building technology and construction techniques. For purposes of this section, agencies of the United States, government-sponsored mortgage finance corporations, and qualified research organizations shall be included as eligible organizations in addition to eligible organizations specified under section 12783 of this title.

(Pub. L. 101-625, title II, § 244, Nov. 28, 1990, 104 Stat. 4118; Pub. L. 102-550, title II, § 215, Oct. 28, 1992, 106 Stat. 3759.)

#### AMENDMENTS

1992—Pub. L. 102-550 inserted before period at end of second sentence “, through the use of cost-saving inno-

vative building technology and construction techniques”.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102-550, set out as a note under section 12704 of this title.

### § 12785. REACH: asset recycling information dissemination

#### (a) In general

The Secretary shall make available upon request by any participating jurisdiction a list of eligible properties that are located within the jurisdiction and that are owned or controlled by the Department of Housing and Urban Development to facilitate the purchase, development, or rehabilitation of such properties with assistance made available under this subchapter.

#### (b) Eligible properties

An eligible property under this section shall—

(1) be an unoccupied single-family or multi-family dwelling, such that acquisition and rehabilitation of the dwelling would not result in the displacement of any residents of the dwelling; and

(2) have an appraised value that does not exceed (A) in the case of a 1- to 4-family dwelling, 95 percent of the median purchase price for the area for such dwellings, as determined by the Secretary, or (B) in the case of a dwelling with more than 4 units, the applicable maximum dollar amount limitation under section 1715(d)(3)(ii) of title 12 for elevator-type structures.

(Pub. L. 101-625, title II, § 245, Nov. 28, 1990, 104 Stat. 4119.)

#### PART D—SPECIFIED MODEL PROGRAMS

### § 12801. General authority

Among the alternative model programs that the Secretary shall make available for use by participating jurisdictions under the provisions of section 12743 of this title shall be model programs specified in this part. The Secretary shall keep these specified model programs under review and submit to Congress such recommendations for change as the Secretary determines to be appropriate.

(Pub. L. 101-625, title II, § 251, Nov. 28, 1990, 104 Stat. 4119.)

### § 12802. Rental housing production

#### (a) Repayable advances

##### (1) In general

The Secretary shall make available a model program under which repayable advances may be made to public and private project sponsors in constructing, acquiring, or substantially rehabilitating projects to be used as affordable rental housing, including limited equity cooperatives and mutual housing.

##### (2) Maximum amount of advance

An advance under this model program shall not exceed 50 percent of the total costs associ-

ated with the construction, acquisition, or substantial rehabilitation of the project, as determined by the participating jurisdiction.

**(3) Terms of repayment**

**(A) Interest payments**

**(i) In general**

Under the model program, advances shall be repaid with interest calculated at a rate of not more than 3 percent per year, as determined by the participating jurisdiction to be appropriate. Interest shall begin to accrue 1 year after the completion of the construction, acquisition, or substantial rehabilitation of the project and shall be payable in annual installments.

**(ii) Exception**

Interest and any accrued interest shall be payable only from the surplus cash flow of the project, after a minimum return on equity determined by the participating jurisdiction to be appropriate. As used in the previous sentence, the term “surplus cash flow” means the cash flow of the project after the payment of all amounts due under the first mortgage, operating expenses, and required replacement reserves, as determined by the participating jurisdiction.

**(B) Additional interest payments**

Under the model program, for any year in which the sum of the surplus cash flow of a project and the return on equity exceeds all interest payments due under subparagraph (A), 50 percent of the excess surplus cash flow shall be paid to the participating jurisdiction’s HOME Investment Trust Fund as additional interest.

**(C) Principal and unpaid interest**

The principal amount of an advance under the model program, and any interest remaining unpaid pursuant to subparagraph (A)(ii) shall be repayable when the housing no longer qualifies as affordable housing in accordance with section 12749(b) of this title.

**(b) Selection guidelines**

**(1) In general**

The Secretary shall establish guidelines for the selection of projects by participating jurisdictions for assistance under the model program. Such guidelines shall be designed to select projects in areas and for markets demonstrating the greatest need for the production of affordable rental housing.

**(2) Specific requirements**

The selection guidelines may include—

(A) the extent of the shortage of rental housing in the area that is available to low-income families;

(B) the extent large families with children will be served by the project;

(C) the extent to which the project provides congregate facilities and has available supportive services that will permit elderly or handicapped residents who become frail and are in need of assistance in living to continue to reside in the project;

(D) the extent of very low-income and low-income occupancy in excess of the income targeting requirements in section 12744 of this title;

(E) the extent of the project sponsor’s commitment of equity to the project (except that this criterion shall not apply to or affect the selection of applications submitted by public housing agencies and nonprofit entities);

(F) the extent of the project sponsor’s commitment of equity to the project in comparison to the value of all public assistance for the project, including assistance under this subchapter, other Federal assistance and financing, and State and local government contributions (except that this criterion shall not apply to or affect the selection of applications submitted by public housing agencies and nonprofit entities);

(G) the extent of non-Federal public or private assistance to the project;

(H) the extent to which the project provides supportive services for persons with disabilities; and

(I) any other factor determined by the Secretary to be appropriate.

**(c) Guidelines**

The Secretary shall publish guidelines for the model program under this section not later than 180 days after November 28, 1990.

(Pub. L. 101-625, title II, § 252, Nov. 28, 1990, 104 Stat. 4119.)

**§ 12803. Rental rehabilitation**

**(a) In general**

The Secretary shall make available a model program to support the rehabilitation of privately owned rental housing located in neighborhoods where the median income does not exceed 80 percent of the area median as determined by the Secretary and where rents can reasonably be expected not to change materially over an extended period of time.

**(b) Amount of subsidy**

The amount of the rehabilitation subsidy shall be moderate and shall generally not exceed 50 percent of the total costs associated with the rehabilitation of the housing.

**(c) Additional restrictions**

The guidelines of the model program shall generally comport with the additional protections and restrictions specified under section 1437o(c)<sup>1</sup> of this title.

(Pub. L. 101-625, title II, § 253, Nov. 28, 1990, 104 Stat. 4121.)

REFERENCES IN TEXT

Section 1437o of this title, referred to in subsec. (c), was repealed by Pub. L. 101-625, title II, § 289(b), Nov. 28, 1990, 104 Stat. 4128.

**§ 12804. Rehabilitation loans**

**(a) In general**

The Secretary shall make available a model program to provide direct loans to finance the

<sup>1</sup> See References in Text note below.



rehabilitation of low and moderate income single family and multifamily residential properties.

**(b) Condition of loans**

The Secretary shall establish terms and conditions to ensure that such loans are acceptable risks, taking into consideration the need for rehabilitation, the security for the loan and the ability of the borrower to repay the loan. The Secretary may establish the interest rate for loans under the model program, which shall include special interest rates for loans to borrowers with incomes below 80 percent of the area median income.

**(c) Additional restrictions**

Guidelines for the model program may require that the property—

- (1) be located in an area that contains a substantial number of dwellings in need of rehabilitation;
- (2) the property<sup>1</sup> is residential and owner-occupied; and
- (3) the property<sup>1</sup> is in need of rehabilitation or concentrated code enforcement within a reasonable time, and the rehabilitation of such property is consistent with a local plan for rehabilitation or code enforcement.

Additional guidelines for the model program shall generally comport with the additional protections and restrictions specified under section 1452b<sup>2</sup> of this title.

(Pub. L. 101-625, title II, §254, Nov. 28, 1990, 104 Stat. 4121.)

REFERENCES IN TEXT

Section 1452b of this title, referred to in subsec. (c), was repealed by Pub. L. 101-625, title II, §289(b)(1), Nov. 28, 1990, 104 Stat. 4128, which is classified to section 12839(b)(1) of this title.

**§ 12805. Sweat equity model program**

**(a) In general**

The Secretary shall make available a model program to provide grants to public and private nonprofit organizations and community housing development organizations to provide technical and supervisory assistance to low-income and very low-income families, including the homeless, in acquiring, rehabilitating, and constructing housing by the self-help housing method.

**(b) Rehabilitation of properties**

The program shall target for rehabilitation properties which have been acquired by the Federal, State, or local governments.

**(c) Homeownership opportunities through sweat equity**

(1) The program shall utilize the skilled or unskilled labor of eligible families in exchange for acquisition of the property.

(2) Training shall be provided to eligible families in building and home maintenance skills.

**(d) Rental opportunities through sweat equity**

(1) The program shall include rental opportunities for eligible families which will help ex-

pand the stock of affordable housing which is most appropriate for the target group.

(2) The use of the tenant's skilled or unskilled labor shall be encouraged in lieu of or as a supplement to rent payments by the tenant.

**(e) "Self-help housing" defined**

The term "self-help housing" means the same as in section 1490c of this title.

**(f) Additional restrictions**

The guidelines for the model program shall generally comport with the additional protections and restrictions specified under section 1490c of this title.

(Pub. L. 101-625, title II, §255, Nov. 28, 1990, 104 Stat. 4121.)

ASSISTANCE FOR SELF-HELP HOUSING PROVIDERS

Pub. L. 104-120, §11, Mar. 28, 1996, 110 Stat. 841, as amended by Pub. L. 105-276, title V, §599E(a), Oct. 21, 1998, 112 Stat. 2663; Pub. L. 106-569, title II, §202, Dec. 27, 2000, 114 Stat. 2951; Pub. L. 108-285, §2, Aug. 2, 2004, 118 Stat. 917, provided that:

"(a) GRANT AUTHORITY.—The Secretary of Housing and Urban Development may, to the extent amounts are available to carry out this section and the requirements of this section are met, make grants for use in accordance with this section to national and regional organizations and consortia that have experience in providing or facilitating self-help housing homeownership opportunities.

"(b) GOALS AND ACCOUNTABILITY.—In making grants under this section, the Secretary shall take such actions as may be necessary to ensure that—

"(1) assistance provided under this section is used to facilitate and encourage innovative homeownership opportunities through the provision of self-help housing, under which the homeowner contributes a significant amount of sweat equity toward the construction of the new dwellings;

"(2) assistance provided under this section for land acquisition and infrastructure development results in the development of not less than 4,000 new dwellings;

"(3) the dwellings constructed in connection with assistance provided under this section are quality dwellings that comply with local building and safety codes and standards and are available at prices below the prevailing market prices;

"(4) the provision of assistance under this section establishes and fosters a partnership between the Federal Government and organizations and consortia, resulting in efficient development of affordable housing with minimal governmental intervention, limited governmental regulation, and significant involvement by private entities;

"(5) activities to develop housing assisted pursuant to this section involve community participation in which volunteers assist in the construction of dwellings; and

"(6) dwellings are developed in connection with assistance under this section on a geographically diverse basis, which includes areas having high housing costs, rural areas, and areas underserved by other homeownership opportunities that are populated by low-income families unable to otherwise afford housing.

If, at any time, the Secretary determines that the goals under this subsection cannot be met by providing assistance in accordance with the terms of this section, the Secretary shall immediately notify the applicable Committees in writing of such determination and any proposed changes for such goals or this section.

"(c) NATIONAL COMPETITION.—The Secretary shall select organizations and consortia referred to in subsection (a) to receive grants through a national competitive process, which the Secretary shall establish.

"(d) USE.—

<sup>1</sup> So in original. The words "the property" probably should not appear.

<sup>2</sup> See References in Text note below.

“(1) PURPOSE.—Amounts from grants made under this section, including any recaptured amounts, shall be used only for eligible expenses in connection with developing new decent, safe, and sanitary nonluxury dwellings in the United States for families and persons who otherwise would be unable to afford to purchase a dwelling.

“(2) ELIGIBLE EXPENSES.—For purposes of paragraph (1), the term ‘eligible expenses’ means costs only for the following activities:

“(A) LAND ACQUISITION.—Acquiring land (including financing and closing costs), which may include reimbursing an organization, consortium, or affiliate, upon approval of any required environmental review, for nongrant amounts of the organization, consortium, or affiliate advanced before such review to acquire land.

“(B) INFRASTRUCTURE IMPROVEMENT.—Installing, extending, constructing, rehabilitating, or otherwise improving utilities and other infrastructure. Such term does not include any costs for the rehabilitation, improvement, or construction of dwellings.

“(e) ESTABLISHMENT OF GRANT FUND.—

“(1) IN GENERAL.—Any amounts from any grant made under this section shall be deposited by the grantee organization or consortium in a fund that is established by such organization or consortium for such amounts, administered by such organization or consortium, and available for use only for the purposes under subsection (d). Any interest, fees, or other earnings of the fund shall be deposited in the fund and shall be considered grant amounts for purposes of this section.

“(2) ASSISTANCE TO AFFILIATES.—Any organization or consortia that receives a grant under this section may use amounts in the fund established for such organization or consortia pursuant to paragraph (1) for the purposes under subsection (d) by providing assistance from the fund to local affiliates of such organization or consortia.

“(f) REQUIREMENTS FOR ASSISTANCE.—The Secretary may make a grant to an organization or consortium under subsection (a) only pursuant to—

“(1) an expression of interest by such organization or consortia to the Secretary for a grant for such purposes;

“(2) a determination by the Secretary that the organization or consortia has the capability and has obtained financial commitments (or has the capacity to obtain financial commitments) necessary to—

“(A) develop not less than 30 dwellings in connection with the grant amounts; and

“(B) otherwise comply with a grant agreement under subsection (i); and

“(3) a grant agreement entered into under subsection (i).

“[(g) Repealed. Pub. L. 105-276, title V, §599E(a)(6), Oct. 21, 1998, 112 Stat. 2664.]

“(h) GEOGRAPHICAL DIVERSITY.—In making grants under subsection (a), the Secretary shall ensure that grants are provided and grant amounts are used in a manner that results in national geographic diversity among housing developed using grant amounts under this section.

“(i) GRANT AGREEMENT.—A grant under this section shall be made only pursuant to a grant agreement entered into by the Secretary and the organization or consortia receiving the grant, which shall—

“(1) require such organization or consortia to use grant amounts only as provided in this section;

“(2) provide for the organization or consortia to develop a specific and reasonable number of dwellings using the grant amounts, which number shall be established taking into consideration costs and economic conditions in the areas in which the dwellings will be developed, but in no case shall be less than 30;

“(3) require the organization or consortia to use the grant amounts in a manner that leverages other sources of funding (other than grants under this section), including private or public funds, in developing the dwellings;

“(4) require the organization or consortia to comply with the other provisions of this section;

“(5) provide that the Secretary shall recapture any grant amounts provided to the organization or consortia that are not used within 24 months after such amounts are first disbursed to the organization or consortia, except that such period shall be 36 months in the case of grant amounts from amounts made available for fiscal year 1996 to carry out this section, and in the case of a [sic] grant amounts provided to a local affiliate of the organization or consortia that is developing five or more dwellings in connection with such grant amounts; and

“(6) contain such other terms as the Secretary may require to provide for compliance with subsection (b) and the requirements of this section.

“(j) FULFILLMENT OF GRANT AGREEMENT.—If the Secretary determines that an organization or consortia awarded a grant under this section has not, within 24 months after grant amounts are first made available to the organization or consortia (or, in the case of grant amounts from amounts made available for fiscal year 1996 to carry out this section and grant amounts provided to a local affiliate of the organization or consortia that is developing five or more dwellings in connection with such grant amounts, within 36 months), substantially fulfilled the obligations under the grant agreement, including development of the appropriate number of dwellings under the agreement, the Secretary shall use any such undisbursed amounts remaining from such grant for other grants in accordance with this section.

“(k) RECORDS AND AUDITS.—During the period beginning upon the making of a grant under this section and ending upon close-out of the grant under subsection (l)—

“(1) the organization awarded the grant shall keep such records and adopt such administrative practices as the Secretary may require to ensure compliance with the provisions of this section and the grant agreement; and

“(2) the Secretary and the Comptroller General of the United States, and any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the grantee organization or consortia and its affiliates that are pertinent to the grant made under this section.

“(l) CLOSE-OUT.—The Secretary shall close out a grant made under this section upon determining that the aggregate amount of any assistance provided from the fund established under subsection (e)(1) by the grantee organization or consortium exceeds the amount of the grant. For purposes of this paragraph, any interest, fees, and other earnings of the fund shall be excluded from the amount of the grant.

“(m) ENVIRONMENTAL REVIEW.—A grant under this section shall be considered to be funds for a special project for purposes of section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994 [42 U.S.C. 3547].

“(n) REPORT TO CONGRESS.—Not later than 90 days after close-out of all grants under this section is completed, the Secretary shall submit a report to the applicable Committees describing the grants made under this section, the grantees, the housing developed in connection with the grant amounts, and the purposes for which the grant amounts were used.

“(o) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

“(1) APPLICABLE COMMITTEES.—The term ‘applicable Committees’ means the Committee on Banking and Financial Services [now Committee on Financial Services] of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

“(2) SECRETARY.—The term ‘Secretary’ means the Secretary of Housing and Urban Development.

“(3) UNITED STATES.—The term ‘United States’ includes the States of the United States, the District of

Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

“(p) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2001.

“(q) REGULATIONS.—The Secretary shall issue any final regulations necessary to carry out this section not later than 30 days after the date of the enactment of this Act [Mar. 28, 1996]. The regulations shall take effect upon issuance and may not exceed, in length, 5 full pages in the Federal Register.”

[Pub. L. 105-276, title V, §599E(b), Oct. 21, 1998, 112 Stat. 2664, provided that: “Notwithstanding the amendments made by subsection (a) [amending section 11 of Pub. L. 104-120, set out above], any grant under section 11 of the Housing Opportunity Program Extension Act of 1996 [Pub. L. 104-120] (42 U.S.C. 12805 note) from amounts appropriated in fiscal year 1998 or any prior fiscal year shall be governed by the provisions of such section 11 as in effect immediately before the enactment of this Act [Oct. 21, 1998], except that the amendments made by paragraphs (8) and (9) of subsection (a) of this section shall apply to such grants.”]

[Pub. L. 105-276, title V, §599E(c), Oct. 21, 1998, 112 Stat. 2664, provided that: “This section [amending section 11 of Pub. L. 104-120, set out above, and enacting provisions set out as a note above] shall take effect, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].”]

FUNDING FOR SELF-HELP HOUSING ASSISTANCE, NATIONAL CITIES IN SCHOOLS COMMUNITY DEVELOPMENT PROGRAM, AND CAPACITY BUILDING THROUGH NATIONAL COMMUNITY DEVELOPMENT INITIATIVE

Pub. L. 104-120, §12, Mar. 28, 1996, 110 Stat. 845, provided that:

“(a) AUTHORITY TO USE ASSISTED HOUSING AMOUNTS.—To the extent and for the purposes specified in subsection (b), the Secretary of Housing and Urban Development may use amounts in the account of the Department of Housing and Urban Development known as the Annual Contributions for Assisted Housing account, but only such amounts which—

“(1) have been appropriated for a fiscal year that occurs before the fiscal year for which the Secretary uses the amounts; and

“(2) have been obligated before becoming available for use under this section.

“(b) FISCAL YEAR 1996.—Of the amounts described in subsection (a), \$60,000,000 shall be available to the Secretary of Housing and Urban Development for fiscal year 1996 in the following amounts for the following purposes:

“(1) SELF-HELP HOUSING ASSISTANCE.—\$40,000,000 for carrying out section 11 of this Act [set out above].

“(2) NATIONAL CITIES IN SCHOOLS COMMUNITY DEVELOPMENT PROGRAM.—\$10,000,000 for carrying out section 930 of the Housing and Community Development Act of 1992 (Public Law 102-550; 106 Stat. 3887).

“(3) CAPACITY BUILDING THROUGH NATIONAL COMMUNITY DEVELOPMENT INITIATIVE.—\$10,000,000 for carrying out section 4 of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note).”

**§ 12806. Home repair services grants for older and disabled homeowners**

**(a) In general**

The Secretary shall make available a model program to provide home repair services for older homeowners and disabled homeowners, including such services as the examination of homes, repair services, and follow-up to ensure the continued effectiveness of the repairs provided.

**(b) Eligible recipients**

Home repair services shall be provided to homeowners who—

- (1) own and reside in the dwellings for which services are provided;
- (2) are older or disabled; and
- (3) are members of low-income families.

**(c) Permitted restrictions**

Guidelines for the model program shall require that—

- (1) assisted dwelling units be the primary residence of the homeowner for whom services are provided;
- (2) preferences be provided for (A) very low-income families, and (B) individuals with intense need characterized by noneconomic factors such as physical and mental disabilities, language barriers, and cultural, social, or geographical isolation caused by racial or ethnic status that restricts the ability of an individual to perform normal daily tasks or that threatens the capacity of the individual to live independently;
- (3) any fees charged be based on the income of the individual receiving the home repair services.

(Pub. L. 101-625, title II, §256, Nov. 28, 1990, 104 Stat. 4122.)

**§ 12807. Low-income housing conservation and efficiency grant programs**

**(a) In general**

The Secretary shall make available a model program to provide safe, energy-efficient affordable housing for low-income persons.

**(b) Activities**

The model program shall provide for—

- (1) identification of housing that is—

(A) owned and occupied by low-income families who have received, are currently receiving, or are scheduled to receive assistance under the weatherization assistance for low-income persons program under part A of title IV of the Energy Conservation and Production Act [42 U.S.C. 6861 et seq.] (or a comparable Federal or State program);

(B) in danger of becoming uninhabitable within a 5-year period because of structural weaknesses or problems; and

(C) not sufficiently sound to permit energy conservation improvements without other repair or rehabilitation measures to protect such energy investments;

(2) repairs that will significantly prolong the habitability of units identified under paragraph (1), including roofing, electrical, plumbing, furnace, and foundation repairs or replacement that will prolong the use of the unit as a safe and energy-efficient residence for low-income persons; and

(3) reasonable steps to ensure that any units so repaired will remain occupied by persons or families eligible for assistance under this subchapter.

(Pub. L. 101-625, title II, §257, Nov. 28, 1990, 104 Stat. 4122.)

REFERENCES IN TEXT

The Energy Conservation and Production Act, referred to in subsec. (b)(1)(A), is Pub. L. 94-385, Aug. 14,

1976, 90 Stat. 1142, as amended. Part A of title IV of the Act is classified generally to part A (§6861 et seq.) of subchapter III of chapter 81 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6801 of this title and Tables.

**§ 12808. Second mortgage assistance for first-time homebuyers**

**(a) In general**

The Secretary shall make available a model program under which units of general local government provide loans (secured by second mortgages) with deferred payment of interest and principal to first-time homebuyers.

**(b) Homeownership counseling**

The program under this section shall provide for homeownership counseling to first-time homebuyers assisted, which shall include—

- (1) counseling before and after purchase of the property;
- (2) assisting first-time homebuyers in identifying the most suitable and affordable properties;
- (3) providing homebuyers with financial management assistance;
- (4) assisting homebuyers in understanding mortgage transactions and home sales contracts; and
- (5) assisting homebuyers with eliminating any credit problems that may prevent the homebuyers from purchasing the property.

**(c) Eligibility requirements**

Deferred payment loans secured by second mortgages may be provided under the model program under this section if—

- (1) the homebuyer assisted is a first-time homebuyer;
- (2) the property secured by the second mortgage is a single-family residence and is the principal residence of the homebuyer; and
- (3) the principal obligation of the deferred payment loan secured by a second mortgage does not exceed 30 percent of the acquisition price of the residence to the homebuyer.

**(d) Payment terms**

**(1) Period of deferral**

The payment of any principal and interest on a loan under this section shall be deferred for not less than the 5-year period beginning on the date of the acquisition of the residence by the homebuyer.

**(2) Interest rate**

The interest rate on the unpaid balance of a loan under this section shall be at least 4 percent.

**(3) Repayment period**

A deferred payment loan secured by a second mortgage shall be repayable over the 15-year period beginning at the end of the deferral period.

**(e) Security**

A deferred payment loan assisted with amount<sup>1</sup> provided under a grant under this section shall be secured by a lien on the property

involved, which lien shall be subordinate to the first mortgage on the property.

(Pub. L. 101-625, title II, §258, Nov. 28, 1990, 104 Stat. 4123.)

**§ 12809. Rehabilitation of State and local government in rem properties**

**(a) In general**

The Secretary shall make available a model program under which States and units of general local government may convert in rem properties to provide affordable permanent housing for the homeless by leasing such properties to nonprofit organizations and permitting such organizations to rehabilitate the properties.

**(b) Target**

The program shall target vacant properties for rehabilitation by nonprofit organizations.

(Pub. L. 101-625, title II, §259, Nov. 28, 1990, 104 Stat. 4124.)

**§ 12810. Cost-saving building technologies and construction techniques**

**(a) In general**

The Secretary shall make available a model program to utilize cost-saving building technologies and construction techniques for purposes of providing homeownership and rental opportunities under this subchapter.

**(b) Selection criteria**

The Secretary shall establish criteria for participating jurisdictions to select projects for assistance under the model program which may include—

- (1) the extent to which innovative, cost-saving building and construction technologies are utilized;
- (2) the extent to which innovative, cost-saving construction techniques are utilized;
- (3) the extent to which units will be made available to low-income families and individuals;
- (4) the extent to which non-Federal public or private assistance is utilized; and
- (5) any other factor, determined by the Secretary to be appropriate.

**(c) Guidelines**

The Secretary shall publish guidelines for the model program under this section not later than 180 days after October 28, 1992.

**(d) Report**

The Secretary shall submit a biennial report to the Congress on the utilization of the model program under this section.

(Pub. L. 101-625, title II, §260, as added Pub. L. 102-550, title II, §216, Oct. 28, 1992, 106 Stat. 3760.)

EFFECTIVE DATE

Section applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102-550, set out as an Effective Date of 1992 Amendment note under section 12704 of this title.

PART E—OTHER ASSISTANCE

AMENDMENTS

2003—Pub. L. 108-186, title I, §102, Dec. 16, 2003, 117 Stat. 2686, amended heading generally. Prior to amendment, heading read “Mortgage Credit Enhancement”.

<sup>1</sup> So in original. Probably should be “amounts”.

**§ 12821. Downpayment assistance initiative****(a) Definitions**

In this section:

**(1) Downpayment assistance**

The term “downpayment assistance” means assistance to help a family acquire a principal residence.

**(2) Home repairs**

The term “home repairs” means capital improvements or repairs that—

(A) are identified in an appraisal or home inspection completed in conjunction with a home purchase; or

(B) are completed within 1 year of the purchase of a home, and are necessary to bring the housing into compliance with health and safety housing codes of the unit of general local government in which the housing is located, including the remediation of lead paint or other home health hazards.

**(3) Participating jurisdiction**

The term “participating jurisdiction” means a State or unit of general local government designated under section 12746 of this title.

**(4) State**

The term “State” means any State of the United States and the District of Columbia.

**(b) Grant authority**

The Secretary may award grants to participating jurisdictions to assist low-income families to achieve homeownership, in accordance with this section.

**(c) Eligible activities****(1) In general****(A) Downpayment assistance**

Subject to subparagraph (B), grants awarded under this section may be used only for downpayment assistance toward the purchase of single family housing (including 1 to 4 unit family dwelling units, condominium units, cooperative units, and manufactured housing units which are located on land which is owned by the manufactured housing unit owner, owned as a cooperative, or is subject to a leasehold interest with a term equal to at least the term of the mortgage financing on the unit, and manufactured housing lots) by low-income families who are first-time home-buyers.

**(B) Home repairs**

Not more than 20 percent of the grant funds provided under subsection (d) of this section to a participating jurisdiction may be used to provide assistance to low-income, first-time home-buyers for home repairs.

**(2) Limitations****(A) Amount of assistance**

The amount of assistance provided to any low-income families under paragraph (1) shall not exceed the greater of—

- (i) 6 percent of the purchase price of a single family housing unit; or
- (ii) \$10,000.

**(B) Participation**

A participating jurisdiction may not use any amount of a grant awarded under this

section to provide funding to an entity or organization that provides downpayment assistance if the activities of that entity or organization are financed in whole or in part, directly or indirectly, by contributions, service fees, or other payments from the sellers of housing.

**(d) Formula allocation****(1) In general**

For each fiscal year, the Secretary shall allocate any amounts made available for assistance under this section to each State that is a participating jurisdiction in an amount equal to a percentage of the total allocation that is equal to the percentage of the national total of low-income households residing in rental housing in the State, as determined on the basis of the most recent census data compiled by the Bureau of the Census.

**(2) Participating jurisdictions other than States****(A) In general**

Subject to subparagraph (B), for each fiscal year, of the amount allocated to each State under paragraph (1), the Secretary shall further allocate from such amount to each participating jurisdiction located within such State an amount equal to the percentage of the allocation made to the State under paragraph (1) that is equal to the percentage of the State-wide total of low-income households residing in rental housing in such participating jurisdiction, as determined on the basis of the most recent census data compiled by the Bureau of the Census.

**(B) Limitation****(i) In general**

Direct allocations made under subparagraph (A) shall be made to a local participating jurisdiction only if—

(I) the participating jurisdiction has a total population of 150,000 individuals or more, as determined on the basis of the most recent census data compiled by the Bureau of the Census; or

(II) the participating jurisdiction would receive an allocation of \$50,000 or more.

**(ii) Reversion**

Any allocation that would have otherwise been made to a participating jurisdiction that does not meet the requirements of clause (i) shall revert back to the State in which the participating jurisdiction is located.

**(e) Reallocation**

If any amounts allocated to a participating jurisdiction under this section become available for reallocation, the amounts shall be reallocated to other participating jurisdictions in accordance with subsection (d) of this section.

**(f) Applicability of other provisions****(1) In general**

Except as otherwise provided in this section, grants made under this section shall not be subject to the provisions of this subchapter.

**(2) Applicable provisions**

In addition to the requirements of this section, grants made under this section shall be subject to the provisions of subchapter I of this chapter, sections 12745(b), 12748, 12749, 12751, 12753, 12754, and 12756(a) of part A of this subchapter, and part F of this subchapter.

**(3) References**

In applying the requirements of part A of this subchapter referred to in paragraph (2)—

(A) any references to funds under part A of this subchapter shall be considered to refer to amounts made available for assistance under this section; and

(B) any references to funds allocated or reallocated under section 12747 or 12747(d) of this title shall be considered to refer to amounts allocated or reallocated under subsection (d) or (e) of this section, respectively.

**(g) Housing strategy**

To be eligible to receive a grant under this section in any fiscal year, a participating jurisdiction shall include in its comprehensive housing affordability strategy developed under section 12705 of this title for such fiscal year—

(1) a description of the anticipated use of any grant received under this section;

(2) a plan for conducting targeted outreach to residents and tenants of public housing, trailer parks, and manufactured housing, and to other families assisted by public housing agencies, for the purpose of ensuring that grant amounts provided under this section to a participating jurisdiction are used for downpayment assistance for such residents, tenants, and families; and

(3) a description of the actions to be taken to ensure the suitability of families receiving downpayment assistance under this section to undertake and maintain homeownership.

**(h) Report**

Not later than June 30, 2006, the Comptroller General of the United States shall submit a report containing a State-by-State analysis of the impact of grants awarded under this section to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(2) the Committee on Financial Services of the House of Representatives.

**(i) Sunset**

The Secretary shall have no authority to make grants under this section after December 31, 2011.

**(j) Relocation assistance and downpayment assistance**

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894) [42 U.S.C. 4601 et seq.] shall not apply to downpayment assistance under this section.

**(k) Authorization of appropriations**

There is authorized to be appropriated to carry out this section \$200,000,000 for each of fiscal years 2004 through 2007.

(Pub. L. 101-625, title II, § 271, Nov. 28, 1990, 104 Stat. 4124; Pub. L. 108-186, title I, § 102, Dec. 16,

2003, 117 Stat. 2686; Pub. L. 111-8, div. I, title II, § 229(4), Mar. 11, 2009, 123 Stat. 978.)

## REFERENCES IN TEXT

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in subsec. (j), is Pub. L. 91-646, Jan. 2, 1971, 84 Stat. 1894, which is classified principally to chapter 61 (§ 4601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

## AMENDMENTS

2009—Subsec. (i). Pub. L. 111-8 substituted “section after December 31, 2011” for “Act after December 31, 2007”.

2003—Pub. L. 108-186 amended section generally. Prior to amendment, section required the Comptroller General to carry out a study of ways in which financing for affordable housing may be made available to assist in the most efficient implementation of comprehensive housing affordability strategies of participating jurisdictions and to submit to Congress and the Secretary, not later than one year after Nov. 28, 1990, a report containing any recommendations for legislative or administrative actions needed to improve the availability of mortgage finance for affordable housing.

## PART F—GENERAL PROVISIONS

**§ 12831. Equal opportunity****(a) Solicitation of contracts**

Each participating jurisdiction shall prescribe procedures acceptable to the Secretary to establish and oversee a minority outreach program within each such jurisdiction to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, including, without limitation, real estate firms, construction firms, appraisal firms, management firms, financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts, entered into by the participating jurisdiction with such persons or entities, public and private, in order to facilitate the activities of the participating jurisdiction to provide affordable housing authorized under this Act or any other Federal housing law applicable to such jurisdiction.

**(b) Report to Congress**

Before the end of the 180-day period beginning on the date the first allocation of funds is made under section 12747 of this title, the Secretary shall submit to the Congress a report containing a description of the actions taken by each participating jurisdiction pursuant to subsection (a) of this section and such recommendations for administrative and legislative action as the Secretary may determine to be appropriate to carry out the purposes of such subsection.

(Pub. L. 101-625, title II, § 281, Nov. 28, 1990, 104 Stat. 4125.)

## REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 101-625, Nov. 28, 1990, 104 Stat. 4079, known as the Cranston-Gonzalez National Affordable Housing Act. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

**§ 12832. Nondiscrimination**

No person in the United States shall on the grounds of race, color, national origin, religion,

or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this subchapter. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.] or with respect to an otherwise qualified handicapped individual as provided in section 794 of title 29 shall also apply to any such program or activity. The Secretary may waive this section in connection with the use of funds made available under this subchapter on lands set aside under the Hawaiian Homes Commission Act, 1920 (42 Stat. 108).

(Pub. L. 101-625, title II, § 282, Nov. 28, 1990, 104 Stat. 4125; Pub. L. 104-204, title II, § 213, Sept. 26, 1996, 110 Stat. 2904.)

#### REFERENCES IN TEXT

The Age Discrimination Act of 1975, referred to in text, is title III of Pub. L. 94-135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Hawaiian Homes Commission Act, 1920, referred to in text, is act July 9, 1921, ch. 42, 42 Stat. 108, as amended, which was classified generally to sections 691 to 718 of Title 48, Territories and Insular Possessions, and was omitted from the Code.

#### AMENDMENTS

1996—Pub. L. 104-204 inserted at end “The Secretary may waive this section in connection with the use of funds made available under this subchapter on lands set aside under the Hawaiian Homes Commission Act, 1920 (42 Stat. 108).”

### § 12833. Audits by Comptroller General

#### (a) Audits of HOME Investment Partnerships program

The Comptroller General, when the Comptroller General deems it to be appropriate or when requested by the Committee on Banking, Housing, and Urban Affairs of the Senate or the Committee on Banking, Finance and Urban Affairs of the House of Representatives, shall conduct a full financial audit of the records of the HOME Investment Partnerships program for any fiscal year. The report of the Comptroller General shall be submitted promptly to the Secretary and the Congress and shall be published.

#### (b) Audits of recipients

The financial transactions of participating jurisdictions and of other recipients of funds provided under this subchapter may, insofar as they relate to funds provided under this subchapter, be audited by the Government Accountability Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the Government Accountability Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

(Pub. L. 101-625, title II, § 283, Nov. 28, 1990, 104 Stat. 4125; Pub. L. 103-233, title II, § 205, Apr. 11, 1994, 108 Stat. 364; Pub. L. 108-271, § 8(b), July 7, 2004, 118 Stat. 814.)

#### AMENDMENTS

2004—Subsec. (b). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office” in two places.

1994—Pub. L. 103-233, § 205(1), substituted “Audits by Comptroller General” for “Annual audits and accountability” in section catchline.

Subsec. (a). Pub. L. 103-233, § 205(4), struck out after first sentence “The initiation of an audit for a fiscal year under the previous sentence shall obviate the requirement for an audit by an independent accounting firm under paragraph (a) for that fiscal year.”

Pub. L. 103-233, § 205(3)(B), (C), redesignated subsec. (b)(1) as (a) and realigned margins.

Pub. L. 103-233, § 205(2), struck out heading and text of subsec. (a). Text read as follows: “The Secretary, except as provided in paragraph (b)(1), shall contract annually with an independent accounting firm to provide for a full financial audit of the records of the HOME Investment Partnerships program for each fiscal year. Funds available for departmental administration may be used to provide for such audits. Each audit shall be performed as soon as practicable after the close of the fiscal year and in accordance with generally accepted Government auditing standards approved by the Comptroller General of the United States (hereinafter referred to as the ‘Comptroller General’), and shall be consistent with the requirements of sections 9105 and 9106 of title 31. The Secretary shall promptly submit the report of the independent accounting firm to the Congress, consistent with the requirements of section 9106 of title 31, and such report shall be published. The requirement for an audit under this section shall be in lieu of the requirement for an audit by the Comptroller General under section 9105(a) of title 31.”

Subsec. (b). Pub. L. 103-233, § 205(3), struck out heading “AUDITS BY THE COMPTROLLER GENERAL.—”, redesignated subsec. (b)(2) as (b), and realigned margins.

#### CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-233 applicable with respect to any amounts made available to carry out this subchapter after Apr. 11, 1994, and any amounts made available to carry out this subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out such amendment not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103-233, set out as a note under section 5301 of this title.

### § 12834. Uniform recordkeeping and reports to Congress

#### (a) Uniform requirements

The Secretary shall develop and establish uniform recordkeeping, performance reporting, and auditing requirements for use by participating jurisdictions.

#### (b) Omitted

(Pub. L. 101-625, title II, § 284, Nov. 28, 1990, 104 Stat. 4126.)

## CODIFICATION

Subsec. (b) of this section, which required the Secretary to make an annual report to Congress that summarizes and assesses the results of reports provided under this section, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, the 3rd item on page 102 of House Document No. 103-7.

**§ 12835. Citizen participation**

The Secretary shall ensure that each participating jurisdiction, and each jurisdiction seeking to become a participating jurisdiction, complies with the requirements of section 12707 of this title.

(Pub. L. 101-625, title II, § 285, Nov. 28, 1990, 104 Stat. 4126.)

**§ 12836. Labor****(a) In general**

Any contract for the construction of affordable housing with 12 or more units assisted with funds made available under this part shall contain a provision requiring that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to sections 3141-3144, 3146, and 3147 of title 40, shall be paid to all laborers and mechanics employed in the development of affordable housing involved, and participating jurisdictions shall require certification as to compliance with the provisions of this section prior to making any payment under such contract.

**(b) Waiver**

Subsection (a) of this section shall not apply if the individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and such persons are not otherwise employed at any time in the construction work.

(Pub. L. 101-625, title II, § 286, Nov. 28, 1990, 104 Stat. 4126.)

## CODIFICATION

In subsec. (a), “sections 3141-3144, 3146, and 3147 of title 40” substituted for “the Davis-Bacon Act (40 U.S.C. 276a-276a-5)” on authority of Pub. L. 107-217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

**§ 12837. Interstate agreements**

The consent of the Congress is hereby given to any two or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this subchapter as they pertain to interstate areas and to localities within such States, and to establish such agencies, joint or otherwise, as they may deem desirable for making such agreements and compacts effective.

(Pub. L. 101-625, title II, § 287, Nov. 28, 1990, 104 Stat. 4127.)

**§ 12838. Environmental review****(a) In general**

In order to assure that the policies of the National Environmental Policy Act of 1969 [42

U.S.C. 4321 et seq.] and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this subchapter, and to assure to the public undiminished protection of the environment, the Secretary, in lieu of the environmental protection procedures otherwise applicable, may under regulations provide for the release of funds for particular projects to jurisdictions or insular areas under this subchapter who assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were he to undertake such projects as Federal projects. The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality. The regulations shall provide—

(1) for the monitoring of the environmental reviews performed under this section;

(2) in the discretion of the Secretary, to facilitate training for the performance of such reviews; and

(3) for the suspension or termination of the assumption under this section.

The Secretary's duty under the preceding sentence shall not be construed to limit or reduce any responsibility assumed by a State or unit of general local government with respect to any particular release of funds.

**(b) Procedure**

The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, at least 15 days prior to such approval and prior to any commitment of funds to such projects<sup>1</sup> the jurisdiction or insular area has submitted to the Secretary a request for such release accompanied by a certification which meets the requirements of subsection (c) of this section. The Secretary's approval of any such certification shall be deemed to satisfy his responsibilities under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for projects to be carried out pursuant thereto which are covered by such certification.

**(c) Certification**

A certification under the procedures authorized by this section shall—

(1) be in a form acceptable to the Secretary,

(2) be executed by the chief executive officer or other officer of the recipient of assistance under this subchapter qualified under regulations of the Secretary,

(3) specify that the recipient of assistance under this subchapter has fully carried out its responsibilities as described under subsection (a) of this section, and

(4) specify that the certifying officer (A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et

<sup>1</sup> So in original. Probably should be followed by a comma.



seq.] and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to subsection (a) of this section, and (B) is authorized and consents on behalf of the jurisdiction or insular area and himself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his responsibilities as such an official.

**(d) Assistance to units of general local government from a State**

In the case of assistance to units of general local government from a State, the State shall perform those actions of the Secretary described in subsection (b) of this section and the performance of such actions shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of such subsection.

(Pub. L. 101-625, title II, § 288, Nov. 28, 1990, 104 Stat. 4127; Pub. L. 103-233, title II, § 206, Apr. 11, 1994, 108 Stat. 365; Pub. L. 104-330, title V, § 505(a)(2), Oct. 26, 1996, 110 Stat. 4044.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a), (b), and (c)(4), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-330, § 505(a)(2)(A), struck out “, Indian tribes,” after “projects to jurisdictions” in introductory provisions.

Subsecs. (b), (c)(4). Pub. L. 104-330, § 505(a)(2)(B), (C), struck out “, Indian tribe,” after “the jurisdiction”.

1994—Subsec. (a). Pub. L. 103-233, § 206(1), substituted “jurisdictions, Indian tribes, or insular areas” for “participating jurisdictions” and inserted before period at end “The regulations shall provide—

“(1) for the monitoring of the environmental reviews performed under this section;

“(2) in the discretion of the Secretary, to facilitate training for the performance of such reviews; and

“(3) for the suspension or termination of the assumption under this section.

The Secretary's duty under the preceding sentence shall not be construed to limit or reduce any responsibility assumed by a State or unit of general local government with respect to any particular release of funds.”

Subsec. (b). Pub. L. 103-233, § 206(2), substituted “jurisdiction, Indian tribe, or insular area” for “participating jurisdiction”.

Subsec. (c)(4)(B). Pub. L. 103-233, § 206(3), substituted “jurisdiction, Indian tribe, or insular area” for “participating jurisdiction”.

Subsec. (d). Pub. L. 103-233, § 206(4), substituted “Assistance to units of general local government from a State” for “Assistance to a State” in heading and “In the case of assistance to units of general local government from a State” for “In the case of assistance to States” in text.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104-330 applicable with respect to amounts made available for assistance under this subchapter for fiscal year 1998 and fiscal years thereafter, see section 505(b) of Pub. L. 104-330, set out as a note under section 12747 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-233 applicable with respect to any amounts made available to carry out this subchapter after Apr. 11, 1994, and any amounts made available to carry out this subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out such amendment not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103-233, set out as a note under section 5301 of this title.

**§ 12839. Termination of existing housing programs**

**(a) In general**

Except with respect to projects and programs for which binding commitments have been entered into prior to October 1, 1991, no new grants or loans shall be made after October 1, 1991, under—

(1) section 17 of the United States Housing Act of 1937 [42 U.S.C. 1437*o*];

(2) section 312 of the Housing Act of 1964 [42 U.S.C. 1452*b*];

(3) title VI of the Housing and Community Development Act of 1987;

(4) section 8(e)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437*f*(e)(2)], except for funds allocated under such section for single room occupancy dwellings as authorized by title IV of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11361 et seq.]; and

(5) section 810 of the Housing and Community Development Act of 1974 [12 U.S.C. 1706*e*].

**(b) Repeals**

**(1) In general**

Except as provided in paragraph (2), effective on October 1, 1991, the provisions of law referred to in subsection (a) of this section are repealed.

**(2) No effect on SRO program**

The provision of law referred to in subsection (a)(4) of this section shall remain in effect with respect to single room occupancy dwellings as authorized by title IV of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11361 et seq.].

**(c) Disposition of repayments**

Any amounts received on or after October 1, 1991, as repayments or recaptures in connection with the programs referred to in subsection (a) of this section and any other amounts for such programs that remain or become unobligated on or after such date, shall be paid into the general fund of the Treasury.

(Pub. L. 101-625, title II, § 289, Nov. 28, 1990, 104 Stat. 4128; Pub. L. 106-400, § 2, Oct. 30, 2000, 114 Stat. 1675.)

REFERENCES IN TEXT

Title VI of the Housing and Community Development Act of 1987 [Pub. L. 100-242], referred to in subsec. (a)(3), is set out as a note under section 1715*f* of Title 12, Banks and Banking.

The McKinney-Vento Homeless Assistance Act, referred to in subsecs. (a)(4), (b)(2), is Pub. L. 100-77, July 22, 1987, 101 Stat. 482. Title IV of the Act is classified generally to subchapter IV (§ 11361 et seq.) of chapter 119 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

## AMENDMENTS

2000—Subsecs. (a)(4), (b)(2). Pub. L. 106-400 substituted “McKinney-Vento Homeless Assistance Act” for “Stewart B. McKinney Homeless Assistance Act”.

**§ 12840. Suspension of requirements for disaster areas**

For funds designated under this subchapter by a recipient to address the damage in an area for which the President has declared a disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5170 et seq.], the Secretary may suspend all statutory requirements for purposes of assistance under this subchapter for that area, except for those related to public notice of funding availability, nondiscrimination, fair housing, labor standards, environmental standards, and low-income housing affordability.

(Pub. L. 101-625, title II, § 290, as added Pub. L. 103-233, title II, § 208, Apr. 11, 1994, 108 Stat. 366.)

## REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in text, is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended. Title IV of the Act is classified generally to subchapter IV (§ 5170 et seq.) of chapter 68 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

## EFFECTIVE DATE

Section applicable with respect to any amounts made available to carry out this subchapter after Apr. 11, 1994, and any amounts made available to carry out this subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out this section not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103-233, set out as an Effective Date of 1994 Amendment note under section 5301 of this title.

**SUBCHAPTER III—NATIONAL  
HOMEOWNERSHIP TRUST DEMONSTRATION**

**§ 12851. National Homeownership Trust**

**(a) Establishment**

There is established the National Homeownership Trust, which shall be in the Department of Housing and Urban Development and shall provide assistance to first-time homebuyers in accordance with this subchapter.

**(b) Board of Directors**

The Trust shall be governed by a Board of Directors, which shall be composed of—

- (1) the Secretary of Housing and Urban Development, who shall be the chairperson of the Board;
- (2) the Secretary of the Treasury;
- (3) the chairperson of the Board of Directors of the Federal Deposit Insurance Corporation;
- (4) the chairperson of the Federal Housing Finance Board;
- (5) the chairperson of the Board of Directors of the Federal National Mortgage Association;
- (6) the chairperson of the Board of Directors of the Federal Home Loan Mortgage Corporation; and
- (7) 1 individual representing consumer interests, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate.

**(c) Powers of Trust**

The Trust shall have the same powers as the powers given the Government National Mortgage Association in section 1723a(a) of title 12.

**(d) Travel and per diem**

Members of the Board of Directors shall receive no additional compensation by reason of service on the Board, but shall be allowed travel expenses, including per diem in lieu of subsistence, as provided for employees of the Federal Government or in the same manner as persons employed intermittently in the Government service are allowed under section 5703 of title 5, as appropriate.

**(e) Director and staff**

**(1) Director**

The Board of Directors may appoint an executive director of the Trust and fix the compensation of the executive director, which shall be paid from amounts in the National Homeownership Trust Fund.

**(2) Staff**

Subject to such rules as the Board of Directors may prescribe, the Trust may appoint and hire such staff and provide for offices as may be necessary to carry out its duties. The Trust may fix the compensation of the staff, which shall be paid from amounts in the National Homeownership Trust Fund.

(Pub. L. 101-625, title III, § 302, Nov. 28, 1990, 104 Stat. 4129.)

## SHORT TITLE

For short title of this subchapter as the “National Homeownership Trust Act”, see Short Title note set out under section 12701 of this title.

**§ 12852. Assistance for first-time homebuyers**

**(a) In general**

The Trust shall provide assistance payments for first-time homebuyers (including homebuyers buying shares in limited equity cooperatives) in the following manners:

**(1) Interest rate buydowns**

Assistance payments so that the rate of interest payable on the mortgages by the homebuyers does not exceed 6 percent.

**(2) Downpayment assistance**

Assistance payments to provide amounts for downpayments (including closing costs and other costs payable at the time of closing) on mortgages for such homebuyers.

**(3) Assistance in connection with mortgage revenue bonds financing**

Interest rate buydowns and downpayment assistance in the manner provided in subsection (e) of this section.

**(4) Second mortgage assistance**

Assistance payments to provide loans (secured by second mortgages) with deferred payment of interest and principal; and<sup>1</sup>

**(5) Capitalization of revolving loan funds**

Grants to public organizations or agencies to establish revolving loan funds to provide

<sup>1</sup> So in original. The “; and” probably should be a period.

homeownership assistance to eligible first-time homebuyers consistent with the requirements of this subchapter. Such grants shall be matched by an equal amount of local investment in such revolving loan funds. Any proceeds or repayments from loans made under this paragraph shall be returned to the revolving loan fund established under this paragraph to be used for purposes related to this section.

**(b) Eligibility requirements**

Assistance payments under this subchapter may be made only to homebuyers and for mortgages meeting the following requirements:

**(1) First-time homebuyer**

The homebuyer is an individual who—

(A) (and whose spouse) has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the property with respect to which assistance payments are made under this subchapter;

(B) is a displaced homemaker who, except for owning a home with his or her spouse or residing in a home owned by the spouse, meets the requirements of subparagraph (A);

(C) is a single parent who, except for owning a home with his or her spouse or residing in a home owned by the spouse while married, meets the requirements of subparagraph (A); or

(D) meets the requirements of subparagraph (A), (B), or (C), except for owning, as a principal residence, a dwelling unit whose structure is—

(i) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations; or

(ii) not in compliance with State, local, or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

**(2) Maximum income of homebuyer**

The aggregate annual income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer, for the 12-month period preceding the date of the application of the homebuyer for assistance under this subchapter, does not exceed—

(A) 95 percent of the median income for a family of 4 persons (adjusted by family size) in the applicable metropolitan statistical area (or such other area that the Board of Directors determines for areas outside of metropolitan statistical areas); or

(B) 115 percent of such median income (adjusted by family size) in the case of an area that is subject to a high cost area mortgage limit under title II of the National Housing Act [12 U.S.C. 1707 et seq.].

The Board of Directors shall provide for certification of such income for purposes of initial eligibility for assistance payments under this subchapter and shall provide for recertification of homebuyers (and families of homebuyers) so assisted not less than every 2 years thereafter.

**(3) Certification**

The homebuyer (and spouse, where applicable) shall certify that the homebuyer has made a good faith effort to obtain a market rate mortgage and has been denied because the annual income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer is insufficient.

**(4) Principal residence**

The property securing the mortgage is a single-family residence or unit in a cooperative and is the principal residence of the homebuyer.

**(5) Maximum mortgage amount**

The principal obligation of the mortgage does not exceed the principal amount that could be insured with respect to the property under the National Housing Act [12 U.S.C. 1701 et seq.].

**(6) Maximum interest rate**

The interest payable on the mortgage is established at a fixed rate that does not exceed a maximum rate of interest established by the Trust taking into consideration prevailing interest rates on similar mortgages.

**(7) Responsible mortgagee**

The mortgage has been made to, and is held by, a mortgagee that is federally insured or that is otherwise approved by the Trust as responsible and able to service the mortgage properly.

**(8) Minimum downpayment**

For a first-time homebuyer to receive downpayment assistance under subsection (a)(2) of this section, the homebuyer shall have paid not less than 1 percent of the cost of acquisition of the property (excluding any mortgage insurance premium paid at the time the mortgage is insured), as such cost is estimated by the Board of Directors.

**(c) Terms of assistance**

**(1) Security**

Assistance payments under this subchapter shall be secured by a lien on the property involved. The lien shall be subordinate to all mortgages existing on the property on the date on which the first assistance payment is made.

**(2) Repayment upon sale**

Assistance payments under this subchapter shall be repayable from the net proceeds of the sale, without interest, upon the sale of the property for which the assistance payments are made. If the sale results in no net proceeds or the net proceeds are insufficient to repay the amount of the assistance payments in full, the Board of Directors shall release the lien to the extent that the debt secured by the lien remains unpaid.

**(3) Repayment upon increased income**

If the aggregate annual income of the homebuyer (and family of the homebuyer) assisted under this subchapter exceeds the applicable maximum income allowable under subsection (b)(2) of this section for any 2-year period after

such assistance is provided, the Board of Directors may provide for the repayment, on a monthly basis, of all or a portion of such assistance payments, based on the amount of assistance provided and the income of the homebuyer (and family of the homebuyer).

**(4) Repayment if property ceases to be principal residence**

If the property for which assistance payments are made ceases to be the principal residence of the first-time homebuyer (or the family of the homebuyer), the Board of Directors may provide for the repayment of all or a portion of the assistance payments.

**(5) Available assistance**

The Trust may make assistance payments under paragraphs (1) and (2) of subsection (a) of this section with respect to a single mortgage of an eligible homebuyer.

**(d) Allocation formula**

Amounts available in any fiscal year for assistance under this subchapter shall be allocated for homebuyers in each State on the basis of the need of eligible first-time homebuyers in each State for such assistance in comparison with the need of eligible first-time homebuyers for such assistance among all States.

**(e) Assistance in connection with housing financed with mortgage revenue bonds**

**(1) Authority**

The Trust shall provide assistance for first-time homebuyers in the form of interest rate buydowns and downpayment assistance under this subsection. Such assistance shall be available only with respect to mortgages for the purchase of residences (A) financed with the proceeds of a qualified mortgage bond (as such term is defined in section 143 of title 26), or (B) for which a credit is allowable under section 25 of title 26.

**(2) Eligibility**

To be eligible for assistance under this subsection, homebuyers and mortgages shall also meet the requirements under subsection (b) of this section, except that—

(A) the certification under subsection (b)(3) of this section shall not be required for assistance under this subsection;

(B) the provisions of subsection (b)(2) of this section shall not apply to assistance under this section; and

(C) the aggregate income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer, for the 12-month period preceding the date of the application of the homebuyer for assistance under this subsection, shall not exceed 80 percent of the median income for a family of 4 persons (as adjusted for family size) in the applicable metropolitan statistical area.

**(3) Limitation of assistance**

Notwithstanding subsection (a) of this section, assistance payments for first-time homebuyers under this subsection shall be provided in the following manners:

**(A) Interest rate buydowns**

Assistance payments to decrease the rate of interest payable on the mortgages by the homebuyers, in an amount not exceeding—

(i) in the first year of the mortgage, 2.0 percent of the total principal obligation of the mortgage;

(ii) in the second year of the mortgage, 1.5 percent of the total principal obligation of the mortgage;

(iii) in the third year of the mortgage, 1.0 percent of the total principal obligation of the mortgage; and

(iv) in the fourth year of the mortgage, 0.5 percent of the total principal obligation of the mortgage.

**(B) Downpayment assistance**

Assistance payments to provide amounts for downpayments on mortgages by the homebuyers, in an amount not exceeding 2.5 percent of the principal obligation of the mortgage.

**(3)<sup>2</sup> Availability**

The Trust may make assistance payments under subparagraphs (A) and (B) of paragraph (3) with respect to a single mortgage of a homebuyer.

(Pub. L. 101-625, title III, § 303, Nov. 28, 1990, 104 Stat. 4130; Pub. L. 102-550, title I, § 182(c)-(e), Oct. 28, 1992, 106 Stat. 3737, 3738.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (b)(2)(B), (5), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, which is classified principally to chapter 13 (§ 1701 et seq.) of Title 12, Banks and Banking. Title II of the Act is classified principally to subchapter II (§ 1707 et seq.) of chapter 13 of Title 12. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

AMENDMENTS

1992—Subsec. (a)(3). Pub. L. 102-550, § 182(c)(2), added par. (3).

Subsec. (a)(4), (5). Pub. L. 102-550, § 182(e), added pars. (4) and (5).

Subsec. (b)(1)(D). Pub. L. 102-550, § 182(d), added subpar. (D).

Subsec. (e). Pub. L. 102-550, § 182(c)(1), added subsec. (e).

**§ 12853. National Homeownership Trust Fund**

**(a) Establishment**

There is established in the Treasury of the United States a revolving fund, to be known as the National Homeownership Trust Fund.

**(b) Assets**

The Fund shall consist of—

(1) any amount approved in appropriation Acts under section 12857 of this title for purposes of carrying out this subchapter;

(2) any amount received by the Trust as repayment for payments made under this subchapter; and

(3) any amount received by the Trust under subsection (d) of this section.

**(c) Use of amounts**

The Fund shall, to the extent approved in appropriations Acts, be available to the Trust for purposes of carrying out this subchapter.

<sup>2</sup> So in original. Probably should be "(4)".

**(d) Investment of excess amounts**

Any amounts in the Fund determined by the Trust to be in excess of the amounts currently required to carry out the provisions of this subchapter shall be invested by the Trust in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

**(e) Demonstration programs**

Using not more than \$20,000,000 of any amounts appropriated for the Fund under section 12857 of this title in fiscal year 1991, the Secretary shall carry out demonstration programs for combining housing activities and economic development activities, as follows:

(1) In Milwaukee, Wisconsin, in an amount not to exceed \$4,200,000, for development, rehabilitation, and revitalization of 2 vacant structures in a blighted minority neighborhood.

(2) In Washington, District of Columbia, in an amount not to exceed \$10,000,000, for non-profit neighborhood-based groups to acquire and rehabilitate vacant public and private housing for resale or rent to low- and moderate-income families and to the extent of and subject to engage in neighborhood-based economic development activities.

(3) In Philadelphia, Pennsylvania, in an amount not to exceed \$1,000,000, for technical assistance and organizational support for a community development corporation that is a city-wide public/private partnership engaged in the provision of technical assistance to neighborhood community development corporations.

(4) In other areas, as the Secretary may determine.

(Pub. L. 101-625, title III, §304, Nov. 28, 1990, 104 Stat. 4132.)

**§ 12854. Definitions**

For purposes of this subchapter:

**(1) Board of Directors**

The term “Board of Directors” or “Board” means the Board of Directors of the National Homeownership Trust under section 12851(b) of this title.

**(2) Displaced homemaker**

The term “displaced homemaker” means an individual who—

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years, but has during such years, worked primarily without remuneration to care for the home and family; and

(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

**(3) Fund**

The term “Fund” means the National Homeownership Trust Fund established in section 12853 of this title.

**(4) Single parent**

The term “single parent” means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

**(5) State**

The term “State” means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

**(6) Trust**

The term “Trust” means the National Homeownership Trust established in section 12851 of this title.

(Pub. L. 101-625, title III, §305, Nov. 28, 1990, 104 Stat. 4132.)

#### TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

**§ 12855. Regulations**

The Board of Directors shall issue any regulations necessary to carry out this subchapter.

(Pub. L. 101-625, title III, §306, Nov. 28, 1990, 104 Stat. 4133.)

**§ 12856. Report**

The Board of Directors shall submit to the Congress, not later than the expiration of the 90-day period beginning on the date of the termination of the Trust under section 12859 of this title, a report containing a description of the activities of the Trust and an analysis of the effectiveness of the Trust in assisting first-time homebuyers.

(Pub. L. 101-625, title III, §307, Nov. 28, 1990, 104 Stat. 4133.)

**§ 12857. Authorization of appropriations**

There are authorized to be appropriated for assistance payments under this subchapter \$520,665,600 for fiscal year 1993 and \$542,533,555 for fiscal year 1994, of which such sums as may be necessary shall be available in each such fiscal year for use under section 12852(e) of this title. Any amount appropriated under this section shall be deposited in the Fund and shall remain available until expended, subject to the provisions of section 12858<sup>1</sup> of this title.

(Pub. L. 101-625, title III, §308, Nov. 28, 1990, 104 Stat. 4133; Pub. L. 102-550, title I, §182(b), Oct. 28, 1992, 106 Stat. 3736.)

#### REFERENCES IN TEXT

Section 12858 of this title, referred to in text, was in the original “section 311”, and was translated as reading “section 309”, meaning section 309 of Pub. L. 101-625, to reflect the probable intent of Congress, because Pub. L. 101-625 does not contain a section 311.

#### AMENDMENTS

1992—Pub. L. 102-550 amended section generally. Prior to amendment, section read as follows: “There are au-

<sup>1</sup> See References in Text note below.

thorized to be appropriated to carry out this subchapter \$250,000,000 for fiscal year 1991 and \$521,500,000 for fiscal year 1992. Any amount appropriated under this section shall be deposited in the Fund and remain available until expended, subject to the provisions of section 12858 of this title.”

### § 12858. Transition

#### (a) Authority of Secretary

Upon the termination of the Trust as provided in section 12859 of this title, the Secretary of Housing and Urban Development shall exercise any authority of the Board of Directors and the Trust in accordance with the provisions of this subchapter as may be necessary to provide for the conclusion of the outstanding affairs of the Trust.

#### (b) Applicability of Trust provisions

Any assistance under this subchapter shall, after termination of the Trust, be subject to the provisions of this subchapter that would have applied to such assistance if the termination had not occurred.

#### (c) Certification of Fund to Treasury

Upon a determination by the Secretary of Housing and Urban Development that the National Homeownership Trust Fund is no longer necessary, the Secretary shall certify any amounts remaining in the Fund to the Secretary of the Treasury and the Secretary of the Treasury shall deposit into the general fund of the Treasury as miscellaneous receipts any amounts remaining in the Fund.

(Pub. L. 101-625, title III, § 309, Nov. 28, 1990, 104 Stat. 4133.)

### § 12859. Termination

The Trust shall terminate September 30, 1994.

(Pub. L. 101-625, title III, § 310, Nov. 28, 1990, 104 Stat. 4133; Pub. L. 102-550, title I, § 182(a), Oct. 28, 1992, 106 Stat. 3736.)

#### AMENDMENTS

1992—Pub. L. 102-550 substituted “September 30, 1994” for “on September 30, 1993”.

#### SUBCHAPTER IV—HOPE FOR HOMEOWNERSHIP OF MULTIFAMILY AND SINGLE FAMILY HOMES

### § 12870. Authorization of appropriations

#### (a) Fiscal year 1993

There are authorized to be appropriated for grants under this title<sup>1</sup> \$855,000,000 for fiscal year 1993, of which—

(1) \$285,000,000 shall be available for activities authorized under title III of the United States Housing Act of 1937 [42 U.S.C. 1437aaa et seq.], of which up to \$4,500,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this<sup>2</sup> title;

(2) \$285,000,000 shall be available for activities authorized under part A of this sub-

chapter, of which up to \$3,250,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this<sup>2</sup> part; and

(3) \$285,000,000 shall be available for activities under part B of this subchapter, of which up to \$2,250,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this<sup>2</sup> part.

Any amount appropriated pursuant to this subsection shall remain available until expended.

#### (b) Fiscal year 1994

There are authorized to be appropriated for grants under this title<sup>1</sup> \$883,641,000 for fiscal year 1994, of which—

(1) \$294,547,000 shall be available for activities authorized under title III of the United States Housing Act of 1937 [42 U.S.C. 1437aaa et seq.], up to \$4,500,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this<sup>2</sup> title;

(2) \$294,547,000 shall be available for activities authorized under part A of this subchapter, up to \$3,250,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this<sup>2</sup> part; and

(3) \$294,547,000 shall be available for activities under part B of this subchapter, up to \$2,250,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this<sup>2</sup> part.

Any amount appropriated pursuant to this subsection shall remain available until expended.

#### (c) Technical assistance

Technical assistance made available under title III of the United States Housing Act of 1937 [42 U.S.C. 1437aaa et seq.] or part A of this subchapter or part B of this subchapter may include, but shall not be limited to, training, clearinghouse services, the collection, processing and dissemination of program information useful for local and national program management, and provision of seed money. Such technical assistance may be made available directly, or indirectly under contracts and grants, as appropriate. In any fiscal year, no single applicant, potential applicant, or recipient under title III of the United States Housing Act of 1937, or part A of this subchapter or part B of this subchapter may receive technical assistance in an amount exceeding 20 percent of the total amount made available for technical assistance under such title or part for the fiscal year.

(Pub. L. 101-625, title IV, § 402, as added Pub. L. 102-550, title I, § 181(a)(1), Oct. 28, 1992, 106 Stat. 3734; amended Pub. L. 109-281, § 2(d)(3), Sept. 22, 2006, 120 Stat. 1181.)

#### REFERENCES IN TEXT

This title, referred to in introductory provisions of subsecs. (a) and (b), is title IV of Pub. L. 101-625, Nov. 28, 1990, 104 Stat. 4148, known as the Homeownership and Opportunity Through HOPE Act, which enacted

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original. Probably should be “such”.

this subchapter and subchapter II-A (§1437aaa et seq.) of chapter 8 of this title, amended sections 1437c, 1437f, 1437i, 1437p, 1437r, and 1437s of this title and section 1709 of Title 12, Banks and Banking, and enacted provisions set out as notes under sections 1437c, 1437aa, and 1437aaa of this title. For complete classification of title IV to the Code, see Short Title note set out under section 1437aaa of this title and Tables.

The United States Housing Act of 1937, referred to in subsecs. (a)(1), (b)(1), and (c), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653. Title III of the Act is classified generally to subchapter II-A (§1437aaa et seq.) of chapter 8 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

#### AMENDMENTS

2006—Subsec. (a). Pub. L. 109-281 struck out the second sentence, which read as follows: “Of the amounts appropriated pursuant to this subsection, up to \$40,000,000, but not less than 5 percent, shall be available for activities authorized under part C of this subchapter.”

Subsec. (b). Pub. L. 109-281 struck out the second sentence, which read as follows: “Of the amounts appropriated pursuant to this subsection, up to \$41,680,000, but not less than 5 percent, shall be available for activities authorized under part C of this subchapter.”

#### GAO AUDIT OF TECHNICAL ASSISTANCE CONTRACTS

Section 181(a)(3) of Pub. L. 102-550 provided that: “The Comptroller General of the United States shall conduct an audit of all of the technical assistance contracts awarded for fiscal years 1993 and 1994 pursuant to section 402 of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12870]. The Comptroller General shall submit a report to the Congress describing the results of such audit not later than September 30, 1994.”

#### PART A—HOPE FOR HOMEOWNERSHIP OF MULTIFAMILY UNITS

### § 12871. Program authority

#### (a) In general

The Secretary is authorized to make—

- (1) planning grants to enable applicants to develop homeownership programs; and
- (2) implementation grants to enable applicants to carry out homeownership programs.

#### (b) Authority to reserve housing assistance

In connection with a grant under this part, the Secretary may reserve authority to provide assistance under section 1437f of this title to the extent necessary to provide rental assistance for a nonpurchasing tenant who resides in the project on the date the Secretary approves the application for an implementation grant, for use by the tenant in another project.

(Pub. L. 101-625, title IV, §421, Nov. 28, 1990, 104 Stat. 4162; Pub. L. 102-550, title I, §181(a)(2)(B)(i), Oct. 28, 1992, 106 Stat. 3735.)

#### REFERENCES IN TEXT

This part, referred to in subsec. (b), was in the original “this subtitle”, meaning subtitle B (§§421-431) of title IV of Pub. L. 101-625, Nov. 28, 1990, 104 Stat. 4162, which enacted this part and amended section 1709 of Title 12, Banks and Banking.

#### AMENDMENTS

1992—Subsec. (c). Pub. L. 102-550 struck out subsec. (c) which read as follows: “AUTHORIZATION OF APPRO-

PRIATIONS.—There is authorized to be appropriated for grants under this part \$51,000,000 for fiscal year 1991 and \$280,000,000 for fiscal year 1992. Any amounts appropriated pursuant to this subsection shall remain available until expended.”

### § 12872. Planning grants

#### (a) Grants

The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this part. The amount of a planning grant under this section may not exceed \$200,000, except that the Secretary may for good cause approve a grant in a higher amount.

#### (b) Eligible activities

Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

- (1) development of resident management corporations and resident councils;
- (2) training and technical assistance of applicants related to the development of a specific homeownership program;
- (3) studies of the feasibility of a homeownership program;
- (4) inspection for lead-based paint hazards, as required by section 4822(a) of this title;
- (5) preliminary architectural and engineering work;
- (6) tenant and homebuyer counseling and training;
- (7) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency for homebuyers and homeowners under the homeownership program;
- (8) development of security plans; and
- (9) preparation of an application for an implementation grant under this part.

#### (c) Application

##### (1) Form and procedures

An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

##### (2) Minimum requirements

The Secretary shall require that an application contain at a minimum—

(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

(B) a description of the applicant and a statement of its qualifications;

(C) identification and description of the eligible property involved, and a description of the composition of the tenants, including family size and income;

(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 12705 of this title that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is

located (or, during the first 12 months after November 28, 1990, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(E) a certification that the applicant will comply with the requirements of the Fair Housing Act [42 U.S.C. 3601 et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], and the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], and will affirmatively further fair housing.

#### (d) Selection criteria

The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

- (1) the qualifications or potential capabilities of the applicant;
- (2) the extent of tenant interest in the development of a homeownership program for the property;
- (3) the potential of the applicant for developing a successful and affordable homeownership program and the suitability of the property for homeownership;
- (4) national geographic diversity among housing for which applicants are selected to receive assistance; and
- (5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this part in an effective and efficient manner.

(Pub. L. 101-625, title IV, § 422, Nov. 28, 1990, 104 Stat. 4162; Pub. L. 102-550, title X, § 1012(i)(1), Oct. 28, 1992, 106 Stat. 3906.)

#### REFERENCES IN TEXT

The Fair Housing Act, referred to in subsec. (c)(2)(E), is title VIII of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I (§ 3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (c)(2)(E), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (c)(2)(E), is title III of Pub. L. 94-135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§ 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

#### AMENDMENTS

1992—Subsec. (b)(4) to (9). Pub. L. 102-550 added par. (4) and redesignated former pars. (4) to (8) as (5) to (9), respectively.

### § 12873. Implementation grants

#### (a) Grants

The Secretary is authorized to make implementation grants to applicants for the purpose

of carrying out homeownership programs approved under this part.

#### (b) Eligible activities

Implementation grants may be used for activities to carry out homeownership programs (including programs for cooperative ownership), including the following activities:

- (1) Architectural and engineering work.
- (2) Acquisition of the eligible property for the purpose of transferring ownership to eligible families in accordance with a homeownership program that meets the requirements under this part.
- (3) Rehabilitation of any property covered by the homeownership program, in accordance with standards established by the Secretary.
- (4) Abatement of lead-based paint hazards, as required by section 4822(a) of this title.
- (5) Administrative costs of the applicant, which may not exceed 15 percent of the amount of the assistance provided under this section.
- (6) Development of resident management corporations and resident management councils, but only if the applicant has not received assistance under section 12872<sup>1</sup> of this title for such activities.
- (7) Counseling and training of homebuyers and homeowners under the homeownership program.
- (8) Relocation of tenants who elect to move.
- (9) Any necessary temporary relocation of tenants during rehabilitation.
- (10) Planning for establishment of for- or not-for-profit small businesses by or on behalf of residents, job training, and other activities that promote economic self-sufficiency of homebuyers and homeowners of the property covered by the homeownership program and economic development of the neighborhood.
- (11) Funding of operating expenses and replacement reserves of the property covered by the homeownership program.
- (12) Legal fees.
- (13) Defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program.
- (14) Economic development activities that promote economic self-sufficiency of homebuyers, residents, and homeowners under the homeownership program.

#### (c) Matching funding

##### (1) In general

Each recipient shall assure that contributions equal to not less than 33 percent of the grant amounts made available under this section, excluding any amounts provided for post-sale operating expense, shall be provided from non-Federal sources to carry out the homeownership program.

##### (2) Form

Such contributions may be in the form of—

- (A) cash contributions from non-Federal resources, which may not include funds from a grant made under section 5306(b) or section 5306(d) of this title;

<sup>1</sup> See References in Text note below.



(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 5306(b) or section 5306(d) of this title;

(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this part;

(D) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

(E) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this part; or

(F) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

#### **(d)<sup>2</sup> Application**

##### **(1) Form and procedure**

An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

##### **(2) Minimum requirements**

The Secretary shall require that an application contain at a minimum—

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) if applicable, an application for assistance under section 1437f of this title, specifying the proposed uses of such assistance and the period during which the assistance will be needed;

(C) a description of the qualifications and experience of the applicant in providing low-income housing;

(D) a description of the proposed homeownership program, consistent with section 12874<sup>3</sup> of this title and the other requirements of this part, specifying the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating the program will comply with the affordability requirements under section 12874(b)<sup>3</sup> of this title;

(E) identification and description of the property involved, and a description of the composition of the tenants, including family size and income;

(F) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) of this section and of other resources that are expected to be made available in support of the homeownership program;

(G) identification and description of the financing proposed for any (i) rehabilitation

and (ii) acquisition (I) of the property, by an entity for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

(H) the proposed sales price, the basis for such price determination, and terms to an entity, if any, that will purchase the property for resale to eligible families;

(I) the proposed sales prices, if any, and terms to eligible families;

(J) any proposed restrictions on the resale of units under a homeownership program;

(K) identification and description of the entity that will operate and manage the property;

(L) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 12705 of this title that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after November 28, 1990, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(M) a certification that the applicant will comply with the requirements of the Fair Housing Act [42 U.S.C. 3601 et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], and the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], and will affirmatively further fair housing.

#### **(d)<sup>4</sup> Selection criteria**

The Secretary shall establish selection criteria for assistance under this section, which shall include—

(1) the qualifications or potential capabilities of the applicant;

(2) the feasibility of the homeownership program;

(3) the extent of tenant interest in the development of a homeownership program for the property;

(4) the potential for developing an affordable homeownership program and the suitability of the property for homeownership;

(5) national geographic diversity among housing for which applicants are selected to receive assistance;

(6) the extent to which a sufficient supply of affordable rental housing of the type assisted under this title<sup>5</sup> exists in the locality, so that the implementation of the homeownership program will not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units; and

(7) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established by the<sup>6</sup> part in an effective and efficient manner.

<sup>2</sup> So in original. Two subsecs. (d) have been enacted.

<sup>3</sup> See References in Text note below.

<sup>4</sup> So in original. Two subsecs. (d) have been enacted.

<sup>5</sup> See References in Text note below.

<sup>6</sup> So in original. Probably should be “this”.

**(e) Approval**

The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved. The Secretary may approve the application for an implementation grant with a statement that the application for the section 8 [42 U.S.C. 1437f] assistance for residents of the project not purchasing units is conditionally approved, subject to the availability of appropriations in subsequent fiscal years.

(Pub. L. 101-625, title IV, § 423, Nov. 28, 1990, 104 Stat. 4163; Pub. L. 102-550, title X, § 1012(i)(2), Oct. 28, 1992, 106 Stat. 3906.)

## REFERENCES IN TEXT

Section 12872 of this title, referred to in subsec. (b)(6), was in the original “section 322” and was translated as reading “section 422”, meaning section 422 of Pub. L. 101-625, to reflect the probable intent of Congress. Section 322 of Pub. L. 101-625 amended section 1708 of Title 12, Banks and Banking.

Section 12874 of this title and section 12874(b) of this title, referred to in subsec. (d)(2)(D), were in the original “section 324” and “section 324(b)”, respectively, and were translated as reading “section 424” and “section 424(b)”, respectively, meaning section 424 of Pub. L. 101-625, to reflect the probable intent of Congress. Section 324 of Pub. L. 101-625, which proposed an amendment to section 1709 of Title 12, never took effect pursuant to section 351 of Pub. L. 101-625. Such section 324 did not contain a subsec. (b).

The Fair Housing Act, referred to in subsec. (d)(2)(M), is title VIII of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I (§ 3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (d)(2)(M), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (d)(2)(M), is title III of Pub. L. 94-135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§ 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

This title, referred to in subsec. (d)(6), means title IV of Pub. L. 101-625, known as the Homeownership and Opportunity Through HOPE Act, and probably should have been “this subtitle”, meaning subtitle B (§§ 421-431) of title IV of Pub. L. 101-625, which is classified principally to this part. For complete classification of title IV of Pub. L. 101-625 to the Code, see Short Title note set out under section 1437aaa of this title and Tables.

## AMENDMENTS

1992—Subsec. (b)(4) to (14). Pub. L. 102-550 added par. (4) and redesignated former pars. (4) to (13) as (5) to (14), respectively.

**§ 12874. Homeownership program requirements****(a) In general**

A homeownership program under this part shall provide for acquisition by eligible families of ownership interest in, or shares representing, the units in an eligible property under any arrangement determined by the Secretary to be

appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

**(b) Affordability**

A homeownership program under this part shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property, and for sales to eligible families, such that the eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

**(c) Plan**

A homeownership program under this part shall provide, and include a plan, for—

- (1) identifying and selecting eligible families to participate in the homeownership program;
- (2) providing relocation assistance to families who elect to move;
- (3) ensuring continued affordability by tenants, homebuyers, and homeowners in the property; and
- (4) providing ongoing training and counseling for homebuyers and homeowners.

**(d) Acquisition and rehabilitation limitation**

Acquisition or rehabilitation of a property under a homeownership program under this part may not consist of acquisition or rehabilitation of less than all of the units in the property. The provisions of this subsection may be waived upon a finding by the Secretary that the sale of less than all the buildings in a project is feasible and will not result in a hardship to any tenants of the project who are not included in the homeownership program.

**(e) Financing****(1) In general**

The application shall identify and describe the proposed financing for (A) any rehabilitation, and (B) acquisition (i) of the project, where applicable, by an entity for transfer to eligible families, and (ii) by eligible families of ownership interests in, or shares representing, units in the project. Financing may include use of the implementation grant, sale for cash, or other sources of financing (subject to applicable requirements), including conventional mortgage loans and mortgage loans insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.].

**(2) Prohibition against pledges**

Property transferred under this part shall not be pledged as collateral for debt or otherwise encumbered except when the Secretary determines that—

- (A) such encumbrance will not threaten the long-term availability of the property for occupancy by low-income families;
- (B) neither the Federal Government nor the public housing agency will be exposed to undue risks related to action that may have to be taken pursuant to paragraph (3);
- (C) any debt obligation can be serviced from project income, including operating assistance; and

(D) the proceeds of such encumbrance will be used only to meet housing standards in accordance with subsection (f) of this section or to make such additional capital improvements as the Secretary determines to be consistent with the purposes of this part.

**(3) Opportunity to cure**

Any lender that provides financing in connection with a homeownership program under this part shall give the public housing agency, resident management corporation, individual owner, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default.

**(f) Housing quality standards**

The application shall include a plan ensuring that the unit—

(1) will be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

(2) will, not later than 2 years after the transfer to an eligible family, meet minimum housing standards established by the Secretary for the purpose of this title.<sup>1</sup>

**(g) Protection of nonpurchasing families**

**(1) In general**

No tenant residing in a dwelling unit in a property on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this part.

**(2) Rental assistance**

If a tenant decides not to purchase a unit, or is not qualified to do so, the Secretary shall, subject to the availability of appropriations, ensure that rental assistance under section 1437f of this title is available for use by each otherwise qualified tenant in that or another property.

**(3) Relocation assistance**

The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

(Pub. L. 101-625, title IV, § 424, Nov. 28, 1990, 104 Stat. 4166.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (e)(1), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Title II of the Act is classified principally to subchapter II (§1707 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

This title, referred to in subsec. (f)(2), is title IV of Pub. L. 101-625, Nov. 28, 1990, 104 Stat. 4148, known as the Homeownership and Opportunity Through HOPE Act, which enacted this subchapter and subchapter II-A (§1437aaa et seq.) of chapter 8 of this title, amended sections 1437c, 1437f, 1437i, 1437p, 1437r, and 1437s of this title and section 1709 of Title 12, and enacted provisions set out as notes under sections 1437c, 1437aa, and 1437aaa of this title. For complete classification of title

IV to the Code, see Short Title note set out under section 1437aaa of this title and Tables.

Section 1437f of this title, referred to in subsec. (g)(2), was in the original “section 8”, and was translated as reading “section 8 of the United States Housing Act of 1937” to reflect the probable intent of Congress.

**§ 12875. Other program requirements**

**(a) Preferences**

In selecting eligible families for homeownership, the recipient shall give a first preference to otherwise qualified current tenants and a second preference to otherwise qualified eligible families who have completed participation in an economic self-sufficiency program specified by the Secretary.

**(b) Cost limitations**

The Secretary may establish cost limitations on eligible activities under this part, subject to the provisions of this part.

**(c) Use of proceeds from sales to eligible families**

The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

**(d) Restrictions on resale by homeowners**

**(1) In general**

**(A) Transfer permitted**

A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

**(B) Right to purchase**

Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a low-income family, the public housing agency or the implementation grant recipient shall have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

**(C) Promissory note required**

The homeowner shall execute a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note.

**(2) 6 years or less**

In the case of a transfer within 6 years of the acquisition under the program, the home-

<sup>1</sup> See References in Text note below.

ownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of—

(A) the contribution to equity paid by the family;

(B) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(C) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

**(3) 6–20 years**

In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the declining balance on the note described in paragraph (1)(C).

**(4) Use of recaptured funds**

Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this subsection shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this part, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

**(e) Third party rights**

The requirements under this part regarding quality standards, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected low-income families, resident management corporations, resident councils, public housing agencies, and

any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

**(f) Dollar limitation on economic development activities**

Not more than an aggregate of \$250,000 from amounts made available under sections 12872 and 12873 of this title may be used for economic development activities under sections 12872(b)(6) and 12873(b)(9)<sup>1</sup> of this title for any project.

**(g) Timely homeownership**

Recipients shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental housing, the recipient shall utilize written tenant selection policies and criteria that are approved by the Secretary as consistent with the purpose of improving housing opportunities for low-income families. The recipient shall promptly notify in writing any rejected applicant of the grounds for any rejection.

**(h) Records and audit of recipients of assistance**

**(1) In general**

Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this part (and any proceeds from financing obtained or sales under subsections (c) and (d) of this section), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

**(2) Access by Secretary**

The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this part.

**(3) Access by Comptroller General**

The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this part.

**(i) Certain entities not eligible**

Any entity that assumes, as determined by the Secretary, a mortgage covering eligible property in connection with the acquisition of the property from an owner under this section must comply with any low-income affordability restrictions for the remaining term of the mortgage. This requirement shall only apply to an entity, such as a cooperative association, that, as determined by the Secretary, intends to own the housing on a permanent basis.

<sup>1</sup> See References in Text note below.

(Pub. L. 101-625, title IV, §425, Nov. 28, 1990, 104 Stat. 4168.)

#### REFERENCES IN TEXT

Sections 12872(b)(6) and 12873(b)(9) of this title, referred to in subsec. (f), were redesignated sections 12872(b)(7) and 12873(b)(10) of this title, respectively, by Pub. L. 102-550, title X, §1012(i), Oct. 28, 1992, 106 Stat. 3906.

### § 12876. Definitions

For purposes of this part:

(1) The term “applicant” means the following entities that may represent the tenants of the housing:

(A) A resident management corporation established in accordance with the requirements of the Secretary under section 1437r of this title.

(B) A resident council.

(C) A cooperative association.

(D) A public or private nonprofit organization.

(E) A public body (including an agency or instrumentality thereof).

(F) A public housing agency (including an Indian housing authority).

(G) A mutual housing association.

(2) The term “eligible family” means a family or individual—

(A) who is a tenant of the eligible property on the date the Secretary approves an implementation grant; or

(B) whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

(3) The term “eligible property” means a multifamily rental property, containing 5 or more units, that is—

(A) owned or held by the Secretary;

(B) financed by a loan or mortgage held by the Secretary or insured by the Secretary;

(C) determined by the Secretary to have serious physical or financial problems under the terms of an insurance or loan program administered by the Secretary; or

(D) owned or held by the Secretary of Agriculture, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Secretary of Defense, the Secretary of Transportation, the General Services Administration, any other Federal agency, or a State or local government or an agency or instrumentality thereof.

(4) The term “homeownership program” means a program for homeownership under this part.

(5) The term “Indian housing authority” has the meaning given such term in section 1437a(b)(11)<sup>1</sup> of this title.

(6) The term “low-income family” has the meaning given such term in section 1437a(b)(2) of this title.

(7) The term “public housing agency” has the meaning given such term in section 1437a(b)(6) of this title.

(8) The term “recipient” means an applicant approved to receive a grant under this title<sup>1</sup>

or such other entity specified in the approved application that will assume the obligations of the recipient under this part.

(9) The term “resident council” means any incorporated nonprofit organization or association that—

(A) is representative of the tenants of the housing;

(B) adopts written procedures providing for the election of officers on a regular basis; and

(C) has a democratically elected governing board, elected by the tenants of the housing.

(10) The term “Secretary” means the Secretary of Housing and Urban Development.

(Pub. L. 101-625, title IV, §426, Nov. 28, 1990, 104 Stat. 4170; Pub. L. 102-550, title I, §181(d), (e), (h), Oct. 28, 1992, 106 Stat. 3735, 3736.)

#### REFERENCES IN TEXT

Section 1437a(b)(11) of this title, referred to in par. (5), was repealed by Pub. L. 104-330, title V, §501(b)(1)(D), Oct. 26, 1996, 110 Stat. 4041, and a new section 1437a(b)(11), defining “public housing agency plan”, was enacted by Pub. L. 105-276, title V, §506(4), Oct. 21, 1998, 112 Stat. 2524.

This title, referred to in par. (8), means title IV of Pub. L. 101-625, known as the Homeownership and Opportunity Through HOPE Act, and probably should have been “this subtitle”, meaning subtitle B (§§421-431) of title IV of Pub. L. 101-625, which is classified principally to this part. For complete classification of title IV of Pub. L. 101-625 to the Code, see Short Title note set out under section 1437aaa of this title and Tables.

#### AMENDMENTS

1992—Par. (1)(G). Pub. L. 102-550, §181(d), added subpar. (G).

Par. (3)(D). Pub. L. 102-550, §181(e), (h), inserted “the Federal Deposit Insurance Corporation, the Secretary of Defense, the Secretary of Transportation, the General Services Administration, any other Federal agency,” after “Corporation,” and “or an agency or instrumentality thereof” before period at end.

### § 12877. Exemption

Eligible property covered by a homeownership program approved under this part shall not be subject to—

(1) the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4101 et seq.], or

(2) the requirements of section 1701z-11 of title 12 applicable to the sale of projects either at foreclosure or after acquisition by the Secretary.

(Pub. L. 101-625, title IV, §427, Nov. 28, 1990, 104 Stat. 4171.)

#### REFERENCES IN TEXT

The Low-Income Housing Preservation and Resident Homeownership Act of 1990, referred to in par. (1), is title II of Pub. L. 100-242, as amended by Pub. L. 101-625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4249, which is classified principally to chapter 42 (§4101 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 12 and Tables.

### § 12878. Limitation on selection criteria

In establishing criteria for selecting applicants to receive assistance under this part, the

<sup>1</sup> See References in Text note below.

Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

(Pub. L. 101-625, title IV, § 428, Nov. 28, 1990, 104 Stat. 4171.)

#### § 12879. Implementation

Not later than the expiration of the 180-day period beginning on the date that funds authorized under this part first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this part. Such requirements shall be subject to section 553 of title 5. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

(Pub. L. 101-625, title IV, § 430, Nov. 28, 1990, 104 Stat. 4172.)

#### § 12880. Report

The Secretary shall no later than December 31, 1995, submit to the Congress a report setting forth—

- (1) the number, type and cost of eligible properties transferred pursuant to this part;
- (2) the income, race, gender, children and other characteristics of families participating (or not participating) in homeownership programs funded under this part;
- (3) the amount and type of financial assistance provided under and in conjunction with this part;
- (4) the amount of financial assistance provided under this part that was needed to ensure continued affordability and meet future maintenance and repair costs; and
- (5) the recommendations of the Secretary for statutory and regulatory improvements to the program.

(Pub. L. 101-625, title IV, § 431, Nov. 28, 1990, 104 Stat. 4172; Pub. L. 104-66, title I, § 1072(a), Dec. 21, 1995, 109 Stat. 721.)

#### AMENDMENTS

1995—Pub. L. 104-66 in section catchline substituted “Report” for “Annual report”, and in introductory provisions substituted “The Secretary shall no later than December 31, 1995,” for “The Secretary shall annually”.

#### PART B—HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES

#### § 12891. Program authority

The Secretary is authorized to make—

- (1) planning grants to help applicants develop homeownership programs in accordance with this part; and
- (2) implementation grants to enable applicants to carry out homeownership programs in accordance with this part.

(Pub. L. 101-625, title IV, § 441, Nov. 28, 1990, 104 Stat. 4172; Pub. L. 102-550, title I, § 181(a)(2)(B)(ii), Oct. 28, 1992, 106 Stat. 3735.)

#### AMENDMENTS

1992—Pub. L. 102-550 struck out “(a) IN GENERAL” before “The Secretary is authorized” and subsec. (b) which read as follows: “AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this part \$36,000,000 for fiscal year 1991, and \$195,000,000 for fiscal year 1992. Any amounts appropriated pursuant to this subsection shall remain available until expended.”

#### § 12892. Planning grants

##### (a) Grants

The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this part. The amount of a planning grant under this section may not exceed \$200,000, except that the Secretary may for good cause approve a grant in a higher amount.

##### (b) Eligible activities

Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

- (1) identifying eligible properties;
- (2) training and technical assistance of applicants related to the development of a specific homeownership program;
- (3) studies of the feasibility of specific homeownership programs;
- (4) inspection for lead-based paint hazards, as required by section 4822(a) of this title;
- (5) preliminary architectural and engineering work;
- (6) homebuyer counseling and training;
- (7) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency for homebuyers and homeowners under the homeownership program;
- (8) development of security plans; and
- (9) preparation of an application for an implementation grant under this part.

##### (c) Application

##### (1) Form and procedures

An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

##### (2) Minimum requirements

The Secretary shall require that an application contain at a minimum—

- (A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;
- (B) a description of the applicant and a statement of its qualifications;
- (C) identification and description of the eligible properties likely to be involved, and a description of the composition of the potential homebuyers and residents of the areas in which such eligible properties are located, including family size and income;
- (D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section

12705 of this title that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after November 28, 1990, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(E) a certification that the applicant will comply with the requirements of the Fair Housing Act [42 U.S.C. 3601 et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], and the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], and will affirmatively further fair housing.

#### (d) Selection criteria

The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

- (1) the qualifications or potential capabilities of the applicant;
- (2) the extent of interest in the development of a homeownership program;
- (3) the potential of the applicant for developing a successful and affordable homeownership program and the availability and suitability of eligible properties in the applicable geographic area with respect to the application;
- (4) national geographic diversity among housing for which applicants are selected to receive assistance; and
- (5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this part in an effective and efficient manner.

(Pub. L. 101-625, title IV, § 442, Nov. 28, 1990, 104 Stat. 4172; Pub. L. 102-550, title X, § 1012(j)(1), Oct. 28, 1992, 106 Stat. 3906.)

#### REFERENCES IN TEXT

The Fair Housing Act, referred to in subsec. (c)(2)(E), is title VIII of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I (§ 3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (c)(2)(E), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (c)(2)(E), is title III of Pub. L. 94-135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§ 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

#### AMENDMENTS

1992—Subsec. (b)(4) to (9). Pub. L. 102-550 added par. (4) and redesignated former pars. (4) to (8) as (5) to (9), respectively.

### § 12893. Implementation grants

#### (a) Grants

The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this part.

#### (b) Eligible activities

Implementation grants may be used for activities to carry out homeownership programs (which may include programs for cooperative ownership), including the following activities:

- (1) Architectural and engineering work.
- (2) Acquisition of the property for the purpose of transferring ownership to eligible families in accordance with a homeownership program meeting the requirements of this part.
- (3) Rehabilitation of the property covered by the homeownership program, in accordance with standards established by the Secretary.
- (4) Abatement of lead-based paint hazards, as required by section 4822(a) of this title.
- (5) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section.
- (6) Counseling and training of homebuyers and homeowners under the homeownership program.
- (7) Relocation of eligible families who elect to move.
- (8) Any necessary temporary relocation of homebuyers during rehabilitation.
- (9) Legal fees.
- (10) Defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program.
- (11) Economic development activities that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program.

#### (c) Matching funding

##### (1) In general

Each recipient shall assure that contributions equal to not less than 25 percent of the grant amounts under this section are provided from non-Federal sources to carry out the homeownership program.

##### (2) Form

Such contributions may be in the form of—

(A) cash contributions from non-Federal resources which may not include funds from a grant made under section 5306(b) or section 5306(d) of this title;

(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 5306(b) or section 5306(d) of this title;

(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this part;

(D) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this part; or

(E) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

**(d) Application**

**(1) Form and procedure**

An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

**(2) Minimum requirements**

The Secretary shall require that an application contain at a minimum—

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) a description of the qualifications and experience of the applicant in providing low-income housing;

(C) a description of the proposed homeownership program, consistent with section 12894 of this title and the other requirements of this part specifying the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating that the program will comply with the affordability requirements under section 12894(b) of this title;

(D) an identification and description of the properties to be acquired under the homeownership program and a description of the composition of potential eligible families, including family size and income;

(E) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) of this section and of other resources that are expected to be made available in support of the homeownership program;

(F) identification and description of the financing proposed for any (i) rehabilitation and (ii) acquisition (I) of the project, where applicable, by an entity for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

(G) the proposed sales prices for the properties, the basis for such price determinations, and terms to an entity, if any, that will purchase that property for resale to eligible families;

(H) the proposed sales prices, if any, and terms to eligible families;

(I) identification and description of the entity that will operate and manage the property;

(J) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 12705 of this title that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after November 28, 1990, that the application is

consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(K) a certification that the applicant will comply with the requirements of the Fair Housing Act [42 U.S.C. 3601 et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], and the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], and will affirmatively further fair housing.

**(e) Selection criteria**

The Secretary shall establish selection criteria for assistance under this part, which shall include—

(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the qualifications and experience of the applicant and the quality of any related ongoing program of the applicant;

(2) the feasibility of the homeownership program;

(3) the quality and viability of the proposed homeownership program;

(4) the extent to which suitable eligible property is available for use under the program in the area to be served, and the extent to which the types of property expected to be covered by the proposed homeownership program are federally owned;

(5) whether the approved comprehensive housing affordability strategy for the jurisdiction within which the eligible property is located includes the proposed homeownership program as one of the general priorities identified pursuant to section 12705(b)(7) of this title;

(6) national geographic diversity among housing for which applicants are selected to receive assistance; and

(7) the extent to which a sufficient supply of affordable rental housing of the type assisted under this part exists in the locality, so that the implementation of the homeownership program will not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units.

**(f) Approval**

The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved.

(Pub. L. 101-625, title IV, §443, Nov. 28, 1990, 104 Stat. 4174; Pub. L. 102-550, title X, §1012(j)(2), Oct. 28, 1992, 106 Stat. 3906; Pub. L. 103-233, title II, §221, Apr. 11, 1994, 108 Stat. 366.)

REFERENCES IN TEXT

The Fair Housing Act, referred to in subsec. (d)(2)(K), is title VIII of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (d)(2)(K), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as



amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (d)(2)(K), is title III of Pub. L. 94-135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

#### AMENDMENTS

1994—Subsec. (c)(1). Pub. L. 103-233 substituted “25 percent” for “33 percent”.

1992—Subsec. (b)(4) to (11). Pub. L. 102-550 added par. (4) and redesignated former pars. (4) to (10) as (5) to (11), respectively.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-233 applicable with respect to any amounts made available to carry out subchapter II (§12721 et seq.) of this chapter after Apr. 11, 1994, and any amounts made available to carry out that subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out such amendment not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103-233, set out as a note under section 5301 of this title.

### § 12894. Homeownership program requirements

#### (a) In general

A homeownership program under this part shall provide for acquisition by eligible families of ownership interests in, or shares representing, units in an eligible property under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

#### (b) Affordability

A homeownership program under this part shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property, and for sales to eligible families, such that the eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

#### (c) Eligible property

A property may not participate in a homeownership program under this part unless all tenants or occupants of the property (at the time of<sup>1</sup> the application for the implementation grant covering the property is filed with the Secretary) participate in the homeownership program.

#### (d) Plan

A homeownership program under this part shall provide, and include a plan, for—

- (1) identifying and selecting eligible families to participate in the homeownership program;
- (2) providing relocation assistance to families who elect to move; and

- (3) ensuring continued affordability of the property to homebuyers and homeowners.

#### (e) Housing quality standards

The application shall include a plan ensuring that the unit—

- (1) will be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and
- (2) will, not later than 2 years after the transfer to an eligible family, meet minimum housing standards established by the Secretary for the purpose of this title.<sup>2</sup>

#### (f) Preference for acquisition of vacant units

Each homeownership program under this part shall provide that, in making vacant units in eligible properties available for acquisition by eligible families, preference shall be given to eligible families who reside in public or Indian housing.

(Pub. L. 101-625, title IV, §444, Nov. 28, 1990, 104 Stat. 4176; Pub. L. 102-550, title I, §181(f), Oct. 28, 1992, 106 Stat. 3736.)

#### REFERENCES IN TEXT

This title, referred to in subsec. (e)(2), is title IV of Pub. L. 101-625, Nov. 28, 1990, 104 Stat. 4148, known as the Homeownership and Opportunity Through HOPE Act, which enacted this subchapter and subchapter II-A (§1437aaa et seq.) of chapter 8 of this title, amended sections 1437c, 1437f, 1437i, 1437p, 1437r, and 1437s of this title and section 1709 of Title 12, Banks and Banking, and enacted provisions set out as notes under sections 1437c, 1437aa, and 1437aaa of this title. For complete classification of title IV to the Code, see Short Title note set out under section 1437aaa of this title and Tables.

#### AMENDMENTS

1992—Subsec. (f). Pub. L. 102-550 added subsec. (f).

### § 12895. Other program requirements

#### (a) Cost limitations

The Secretary may establish cost limitations on eligible activities under this part, subject to the provisions of this part.

#### (b) Use of proceeds from sales to eligible families

Any entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, may use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

#### (c) Restrictions on resale by homeowners

##### (1) In general

##### (A) Transfer permitted

A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

<sup>1</sup> So in original. The word “of” probably should not appear.

<sup>2</sup> So in original. See References in Text note below.

**(B) Right to purchase**

Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a low-income family, the public housing agency or the implementation grant recipient shall have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

**(C) Promissory note required**

The homeowner shall execute a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note.

**(2) 6 years or less**

In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of—

(A) the contribution to equity paid by the family;

(B) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(C) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

**(3) 6-20 years**

In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the declining balance on the note described in paragraph (1)(C).

**(4) Use of recaptured funds**

Fifty percent of any portion of the net sales proceeds that may not be retained by the

homeowner under the plan approved pursuant to this subsection shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this part, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

**(d) Third party rights**

The requirements under this part regarding quality standards, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected low-income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

**(e) Protection of nonpurchasing families**

No tenant residing in a dwelling unit in a property on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this part.

**(h)<sup>1</sup> Records and audit of recipients of assistance****(1) In general**

Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this part (and any proceeds from financing obtained or sales under subsections (b) and (c) of this section), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

**(2) Access by Secretary**

The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this part.

**(3) Access by Comptroller General**

The Comptroller General of the United States, or any of the duly authorized rep-

<sup>1</sup> So in original. Probably should be "(f)".

representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this part.

(Pub. L. 101-625, title IV, § 445, Nov. 28, 1990, 104 Stat. 4177.)

#### § 12896. Definitions

For purposes of this part:

(1) The term “applicant” means a private nonprofit organization, cooperative association, or a public agency (including an agency or instrumentality thereof) in cooperation with a private nonprofit organization.

(2) The term “displaced homemaker” has the same meaning as in section 12704 of this title.

(3) The term “eligible family” means a family or individual who—

(A) has an income that does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families; and

(B) is a first-time homebuyer.

(4) The term “eligible property” means a single family property, containing no more than four units, that is owned or held by the Secretary, the Secretary of Veterans Affairs, the Secretary of Agriculture, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Secretary of Defense, the Secretary of Transportation, the General Services Administration, any other Federal agency, a State or local government (including any in rem property), or a public housing agency or an Indian housing authority (excluding public or Indian housing under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] and including properties held by institutions within the jurisdiction of the Resolution Trust Corporation).

(5) The term “first-time homebuyer” has the same meaning as in section 12704 of this title.

(6) The term “homeownership program” means a program for homeownership under this part.

(7) The term “Indian housing authority” has the meaning given such term in section 3(b)(11)<sup>1</sup> of the United States Housing Act of 1937.

(8) The term “low-income family” has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(2)].

(9) The term “public housing agency” has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(6)].

(10) The term “recipient” means an applicant approved to receive a grant under this part or such other entity specified in the approved application that will assume the obligations of the recipient under this part.

(11) The term “Secretary” means the Secretary of Housing and Urban Development.

(12) The term “single parent” means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(Pub. L. 101-625, title IV, § 446, Nov. 28, 1990, 104 Stat. 4179; Pub. L. 102-550, title I, § 181(g)(2), (h), Oct. 28, 1992, 106 Stat. 3736.)

#### REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in par. (4), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, and amended, which is classified generally to chapter 8 (§ 1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

Section 3(b)(11) of the United States Housing Act of 1937, referred to in par. (7), was classified to section 1437a(b)(11) of this title prior to repeal by Pub. L. 104-330, title V, § 501(b)(1)(D), Oct. 26, 1996, 110 Stat. 4041, and a new section 1437a(b)(11), defining “public housing agency plan”, was enacted by Pub. L. 105-276, title V, § 506(4), Oct. 21, 1998, 112 Stat. 2524.

#### AMENDMENTS

1992—Par. (4). Pub. L. 102-550 inserted “the Federal Deposit Insurance Corporation, the Secretary of Defense, the Secretary of Transportation, the General Services Administration, any other Federal agency,” after “Corporation,” and substituted “(excluding public or Indian housing under the United States Housing Act of 1937 and including” for “(including scattered site single family properties, and”.

#### § 12897. Limitation on selection criteria

In establishing criteria for selecting applicants to receive assistance under this part, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

(Pub. L. 101-625, title IV, § 447, Nov. 28, 1990, 104 Stat. 4180.)

#### § 12898. Implementation

Not later than the expiration of the 180-day period beginning on the date funds authorized under this part first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this part. Such requirements shall be subject to section 553 of title 5. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

(Pub. L. 101-625, title IV, § 448, Nov. 28, 1990, 104 Stat. 4180.)

#### § 12898a. Enterprise zone homeownership opportunity grants

##### (a) Statement of purpose

It is the purpose of this section—

(1) to encourage homeownership by families in the United States who are not otherwise able to afford homeownership;

(2) to encourage the redevelopment of economically depressed areas; and

<sup>1</sup> See References in Text note below.

(3) to provide better housing opportunities in federally approved and equivalent State-approved enterprise zones.

**(b) Definitions**

For purposes of this section the following definitions shall apply:

**(1) Home**

The term “home” means any 1- to 4-family dwelling. Such term includes any dwelling unit in a condominium project or cooperative project consisting of not more than 4 dwelling units, any town house, and any manufactured home.

**(2) Metropolitan statistical area**

The term “metropolitan statistical area” means a metropolitan statistical area as established by the Office of Management and Budget.

**(3) Nonprofit organization**

The term “nonprofit organization” means a private nonprofit corporation, or other private nonprofit legal entity, that is approved by the Secretary as to financial responsibility.

**(4) Secretary**

The term “Secretary” means the Secretary of Housing and Urban Development.

**(5) State**

The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

**(6) Unit of general local government**

The term “unit of general local government” means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

**(c) Assistance to nonprofit organizations**

**(1) In general**

The Secretary may provide assistance to nonprofit organizations to carry out enterprise zone homeownership opportunity programs to promote homeownership in federally approved and equivalent State-approved enterprise zones in accordance with the provisions of this section. Such assistance shall be made in the form of grants.

**(2) Applications**

Applications for assistance under this section shall be made in such form, and in accordance with such procedures, as the Secretary may prescribe.

**(d) Eligible uses of assistance**

**(1) In general**

Any nonprofit organization receiving assistance under this section shall use such assistance to provide loans to families purchasing homes constructed or rehabilitated in accordance with an enterprise zone homeownership opportunity program approved under this section.

**(2) Specific requirements**

Each loan made to a family under this subsection shall—

(A) be secured by a second mortgage held by the Secretary on the property involved;

(B) be in an amount not exceeding \$15,000;

(C) bear no interest; and

(D) be repayable to the Secretary upon the sales, lease, or other transfer of such property.

**(e) Program requirements**

**(1) In general**

Assistance provided under this section may be used only in connection with an enterprise zone homeownership opportunity program of construction or rehabilitation of homes.

**(2) Family need**

Each family purchasing a home under this section shall—

(A) have a family income on the date of such purchase that is not more than the median income for a family of 4 persons (adjusted for family size) in the metropolitan statistical area in which a federally approved or equivalent State-approved enterprise zone is located; and

(B) not have owned a home during the 3-year period preceding such purchase.

**(3) Downpayment**

Each family purchasing a home under this section shall make a downpayment of not less than 5 percent of the sale price of such home.

**(4) Leasing prohibition**

No family purchasing a home under this section may lease such home.

**(f) Terms and conditions of assistance**

**(1) Local consultation**

No proposed enterprise zone homeownership opportunity program may be approved by the Secretary under this section unless the applicant involved demonstrates to the satisfaction of the Secretary that—

(A) it has consulted with and received the support of residents of the neighborhood in which such program is to be located; and

(B) it has the approval of each unit of general local government in which such program is to be located.

**(2) Program schedule**

Each applicant for assistance under this section shall submit to the Secretary an estimated schedule for completion of its proposed enterprise zone homeownership opportunity program, which schedule shall have been agreed to by each unit of general local government in which such program is to be located.

**(3) Location**

All homes constructed or rehabilitated under such program will be located in federally approved or equivalent State-approved enterprise zones.

**(4) Sales contracts**

Sales contracts entered into under such program will contain provisions requiring repayment of any loan made under this section upon the sale or other transfer of the home involved, unless the Secretary approves a transfer of such home without repayment (in which

case the second mortgage held by the Secretary on such home shall remain in force until such loan is fully repaid).

**(g) Program selection criteria**

**(1) In general**

In selecting enterprise zone homeownership opportunity programs for assistance under this section from among eligible programs, the Secretary shall make such selection on the basis of the extent to which—

(A) non-Federal public or private entities will contribute land necessary to make each program feasible;

(B) non-Federal public and private financial or other contributions (including tax abatements, waivers of fees related to development, waivers of construction, development, or zoning requirements, and direct financial contributions) will reduce the cost of home<sup>1</sup> constructed or rehabilitated under each program;

(C) each program will produce the greatest number of units for the least amount of assistance provided under this section, taking into consideration the cost differences among different market areas; and

(D) each program provides for the involvement of local residents in the planning, and construction or rehabilitation, of homes.

**(2) Exception**

To the extent that non-Federal public entities are prohibited by the law of any State from making any form of contribution described in subparagraph (A) or (B) of paragraph (1), the Secretary shall not consider such form of contribution in evaluating such program.

**(h) Regulations**

Not later than 180 days after October 28, 1992, the Secretary shall issue final regulations to carry out the provisions of this title.<sup>2</sup> Any such regulations shall be issued in accordance with section 553 of title 5, notwithstanding the provisions of subsection (a)(2) of such section.

**(i) Funding**

There are authorized to be appropriated to carry out this section \$30,000,000 in each of fiscal years 1993 and 1994.

(Pub. L. 102-550, title I, §186, Oct. 28, 1992, 106 Stat. 3748.)

**CODIFICATION**

Section was enacted as part of the Housing and Community Development Act of 1992, and not as part of subtitle C (§§ 441-448) of title IV of Pub. L. 101-625 which comprises this part.

**TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS**

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

<sup>1</sup> So in original. Probably should be “homes”.

<sup>2</sup> So in original. Probably should be “this section.”

**PART C—HOPE FOR YOUTH: YOUTHBUILD**

**§§ 12899 to 12899i. Repealed. Pub. L. 109-281, §2(e), Sept. 22, 2006, 120 Stat. 1181**

Section 12899, Pub. L. 101-625, title IV, §451, as added Pub. L. 102-550, title I, §164, Oct. 28, 1992, 106 Stat. 3723, set forth the statement of purpose of this part.

Section 12899a, Pub. L. 101-625, title IV, §452, as added Pub. L. 102-550, title I, §164, Oct. 28, 1992, 106 Stat. 3723, authorized the Secretary to make planning and implementation grants.

Section 12899b, Pub. L. 101-625, title IV, §453, as added Pub. L. 102-550, title I, §164, Oct. 28, 1992, 106 Stat. 3723, related to planning grants.

Section 12899c, Pub. L. 101-625, title IV, §454, as added Pub. L. 102-550, title I, §164, Oct. 28, 1992, 106 Stat. 3725; amended Pub. L. 105-277, div. A, §101(f) [title VIII, §405(d)(43)(A), (f)(34)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-428, 2681-434, related to implementation grants.

Section 12899d, Pub. L. 101-625, title IV, §455, as added Pub. L. 102-550, title I, §164, Oct. 28, 1992, 106 Stat. 3728; amended Pub. L. 105-276, title V, §514(a)(2)(B), Oct. 21, 1998, 112 Stat. 2547; Pub. L. 106-400, §2, Oct. 30, 2000, 114 Stat. 1675, set forth Youthbuild program requirements.

Section 12899e, Pub. L. 101-625, title IV, §456, as added Pub. L. 102-550, title I, §164, Oct. 28, 1992, 106 Stat. 3730; amended Pub. L. 105-277, div. A, §101(f) [title VIII, §405(d)(43)(B)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-428, set forth additional program requirements.

Section 12899f, Pub. L. 101-625, title IV, §457, as added Pub. L. 102-550, title I, §164, Oct. 28, 1992, 106 Stat. 3731; amended Pub. L. 103-382, title III, §394(d), Oct. 20, 1994, 108 Stat. 4027; Pub. L. 105-244, title I, §102(a)(13)(M), Oct. 7, 1998, 112 Stat. 1621; Pub. L. 106-400, §2, Oct. 30, 2000, 114 Stat. 1675; Pub. L. 109-136, §5, Dec. 22, 2005, 119 Stat. 2644, defined terms.

Section 12899g, Pub. L. 101-625, title IV, §458, as added Pub. L. 102-550, title I, §164, Oct. 28, 1992, 106 Stat. 3733, related to management and technical assistance.

Section 12899h, Pub. L. 101-625, title IV, §459, as added Pub. L. 102-550, title I, §164, Oct. 28, 1992, 106 Stat. 3733, related to contracts.

Section 12899h-1, Pub. L. 101-625, title IV, §460, as added Pub. L. 104-330, title V, §504(a)(2), Oct. 26, 1996, 110 Stat. 4044; amended Pub. L. 105-276, title V, §595(e)(15), Oct. 21, 1998, 112 Stat. 2659; Pub. L. 109-136, §6, Dec. 22, 2005, 119 Stat. 2644, rendered Indian tribes, Indian housing authorities, and other agencies primarily serving Indians or Indian areas ineligible for amounts made available for assistance under this part for fiscal years 1998 through 2005.

Section 12899i, Pub. L. 101-625, title IV, §461, formerly §460, as added Pub. L. 102-550, title I, §164, Oct. 28, 1992, 106 Stat. 3733; renumbered §461, Pub. L. 104-330, title V, §504(a)(1), Oct. 26, 1996, 110 Stat. 4043, authorized the Secretary to issue any regulations necessary to carry out this part.

**TRANSFER OF FUNCTIONS**

All functions which the Secretary of Housing and Urban Development exercised before Sept. 22, 2006, relating to subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899 et seq.) transferred to the Department of Labor, see section 3(b) of Pub. L. 109-281, set out as a Transfer of Functions and Savings Provisions note under section 2918a of Title 29, Labor.

**CHAPTER 131—HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS**

Sec.	Purpose.
12901.	Definitions.
12902.	General authority.
12903.	Eligible activities.
12904.	Responsibilities of grantees.
12905.	Grants for AIDS housing information and coordination services.
12906.	